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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Per A. ENEVOLDSEN

Serial No.: 10/623,641

Filing Date: 21 July 2003

For: NECKLACES AND BRACELETS WITH KEEPERS

**CERTIFICATE OF EXPRESS MAIL**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

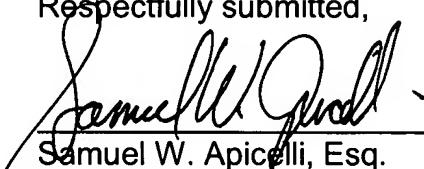
I hereby certify that this document, namely the Response to Petition for Access, is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

"Express Mail" mailing label number EV 428845365 US

Date of Deposit: June 9, 2004.

Date: 6/9/04

Respectfully submitted,

  
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SWA/tmf  
Docket No: Y1776-00004

HBG\128015.1



FFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/623,641  
Applicant : Per A. Enevoldsen  
Filed : 07/21/2003  
Title : NECKLACES AND BRACELETS WITH KEEPERS  
  
Docket No. : PAN1(Y1776-00004)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

TRANSMITTAL LETTER

Please find enclosed for filing:

- Response to Petition for Access
- Return Receipt Postcard
- Transmittal Letter. Please charge any fees in connection with this matter to Deposit Account No. 04-1679.
- Certificate of Express Mailing. Express Mailing Label No. EV 428845365 US

Date: June 9, 2004

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/623,641  
Applicant : Per A. ENEVOLDSEN  
Filed : 21 July 2003  
Title : NECKLACES AND BRACELETS WITH KEEPERS  
  
Docket No. : PAN1(Y1776-00004)

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RESPONSE TO PETITION FOR ACCESS  
UNDER 37 CFR §1.14(a)(1) AND (h)

Sir:

This is in response to the Communication from the Office of Patent Legal Administration, mailed May 20, 2004, regarding a Petition for Access to the above-identified patent application, under 37 CFR § 1.14(a)(1) and (h). The Petition has been filed on behalf of Chamilia, LLC ("Chamilia"). Pandora Jewelry, LLC of 10015 Old Columbia Road, Suite B-215, Columbia, Maryland ("Pandora") is the owner of record of the subject invention and patent application by assignment (Reel/Frame: 014505/0133). Applicant, through his Assignee Pandora, opposes Chamilia's Petition for Access to the above-identified patent application, and requests denial of the same for the following reasons.

Petitioner has requested access to the above-identified patent application based upon an allegation that Pandora has interfered in its business which it believes constitutes "Special Circumstances." These alleged Special Circumstances not only do not exist, but have been rendered moot as a result of Applicant's filing of a Request for Expedited Publication of the above-identified patent application. Moreover, the assertions and declarations, filed by Petitioner in support of its allegation of "Special Circumstances," are simply inaccurate representations of the facts that fail to support Petitioner's position before the Office. Accordingly, denial of Chamilia's Petition for Access is the only appropriate decision for the Office.

**Publication of U.S. Patent Application No. 10/623,641**

The above-identified patent application was filed on July 21, 2003, with a Request for Non-Publication Under 35 U.S.C. §122(b). A Petition to Make Special under 37 C.F.R. §1.102(d) was also filed with the application. The basis for the Petition to Make Special was that the subject invention was (and is) actually being manufactured and offered for sale in the marketplace by entities other than Pandora. On January 27, 2004, Applicant requested the rescission of the Non-Publication Request and the publication of the application as early as possible. An Early Publication Request, under 37 C.F.R. §1.219, was also submitted to the Office along with the Publication fee of \$300.

In or around May 18, 2004, Applicant received a corrected Filing Receipt issued for the above-identified patent application which stated that a projected publication date for the application had been set by the Office for August 19, 2004. Since the above-identified application is set for publication shortly, the underlying premise supporting Petitioner's request for access to the application is moot. Any possible need to review Applicant's pending claims will be satisfied in accordance with the established Patent Office policies and procedures concerning publication of pending patent applications. Importantly, the granting of Chamilia's Petition for Access would act to subvert those policies and procedures, and create the embarrassing situation in which the Office has allowed access to application materials by a third party that are equally available, at essentially the same time, on the Patent Office website.

For this reason alone, Petitioner's Request for Access to Application Serial No. 10/623,641, should be denied, and Petitioner should be made to wait for that application's publication in August of 2004.

In the interest of fairness, and conditioned upon denial of Chamilia's Petition for Access, the Petitions Examiner is authorized to advise Chamilia of the approximate publication date that has now been accorded Application Serial No. 10/623,641.

**Petitioner's Allegations Regarding Special Circumstances are Baseless**

Petitioner and Applicant are not strangers to one another. Pandora is engaged in the business of creating, manufacturing, marketing, distributing and selling custom designed bracelets and necklaces featuring sterling silver and 14-karat gold jewelry beads. With regard to specialty bracelets, necklaces and beads, Pandora is a recognized leader in the jewelry industry, particularly for elegant jewelry that is inspired by a distinctive Scandinavian style and design. Pandora's jewelry designs were created in 1999, and are protected by the Danish Copyright laws. Pandora Jewelry obtained a U.S. Copyright Certificate of Registration, VA 1-208-549, for its jewelry designs that became effective on September 4, 2003. Building upon the original character of these copyrighted Pandora jewelry designs, Per. A. Enevoldsen, a principal of Pandora, invented a unique method of stringing jewelry beads, spacers and clips which, in turn, form individually distinctive bracelets and necklaces. On July 21, 2003, Pandora filed a patent application with the U.S. Patent and Trademark Office to protect Mr. Enevoldsen's invention. The patent application currently pending is entitled "NECKLACES AND BRACELETS WITH KEEPERS" and was assigned Application No. 10/623,641.

On September 25, 2003, Pandora filed suit against Chamilia in the United States District Court for the Southern District of New York, Civil Action Docket No. 03 CV 7587 and another suit was filed in the District Court of New Jersey alleging, among other things, that Chamilia had been illegally copying Pandora's bead designs thereby infringing Pandora's valid, worldwide copyrights in those

designs. In addition, Chamilia had been attempting to pass its illegally copied products off as if they were Pandora's jewelry products in a manner calculated to deceive Pandora's customers and members of the general public. In particular, it was plead that Chamilia illegally copied the design of Pandora's silver and 14-karat gold beads in an effort to make Chamilia's infringing products confusingly similar to Pandora's. A copy of the New York complaint is attached as Exhibit A.

The above-identified lawsuits were initiated by Pandora to stop Chamilia's unauthorized manufacture, promotion, distribution and sale of Chamilia's jewelry which copied the copyrighted Pandora jewelry designs. In the New York Action, Pandora sought a temporary restraining order ("TRO") against Chamilia. On October 2, 2003, after holding a hearing, District Court Judge Sprizzo issued a TRO which enjoined Chamilia, and any other person acting in concert or participation with Chamilia, from, among other things, the copying, marketing, or selling of copies of Pandora's copyrighted jewelry designs. A copy of the TRO is attached hereto as Exhibit B.

After a period of settlement discussions, Chamilia consented to the entry of a judgment against it. On November 24, 2003, a Final Judgment on Consent ("Final Judgment") was entered by the New York District Court and executed by the parties involved whereby a final judgment of copyright infringement was entered against Chamilia in favor of Pandora. A copy of the Final Judgment is attached hereto as Exhibit C. In early November, 2003, in order to restrain various retailers in New Jersey from selling the infringing Chamilia jewelry,

Pandora filed an action against Jason Adams, individually, and Jason Adams conducting business as Chamilia Beaded Charms in the District Court for New Jersey alleging the copyright and trademark infringement resulting from the New Jersey retailer's sale of the Chamilia jewelry. On November 7, 2003, the District Court Judge in New Jersey also issued a TRO enjoining the New Jersey retailers from promoting, selling or distributing the Chamilia jewelry.

On January 26, 2004, the District Court Judge in New Jersey entered a Stipulation and Order of Settlement whereby Jason Adams consented to an injunction permanently restraining Mr. Adams from copying Pandora's jewelry designs and selling the Chamilia jewelry. A copy of the Stipulation and Order of Settlement is attached hereto as Exhibit D.

Applicant respectfully submits that Chamilia's Petition and supporting Declarations merely demonstrate a significant level of confusion on Petitioner's part as to what legal actions have been brought or have been threatened by Pandora. More particularly, attached to this Response are several Declarations from key Pandora personnel who were identified but grossly misquoted in Chamilia's Petition documents. For example, Ms Jody Henderson is a sales representative for Pandora. Petitioner has submitted a Declaration from Ms. Kathy Riley alleging that Ms. Henderson had made a number of allegations to her regarding Pandora's legal intentions toward Chamilia. Ms. Riley's statements are the result of her confusion as to the current legal confrontation between

Pandora and Chamilia. They simply fail to support the allegation of "Special Circumstances" relied upon by Chamilia in its Petition papers.

Attached to this Response, as Exhibit E, is the Declaration of Ms. Jody Henderson. On March 14, 2004, Ms. Henderson did visit the LAD Group display booth at the Chicago Gift Show. She was wearing a Pandora bracelet with various silver and 14-karat gold jewelry beads. While at the LAD Group booth, Ms. Riley approached Ms. Henderson and inquired about her Pandora bracelet. They spoke concerning the Pandora jewelry line before Ms. Riley asked Ms. Henderson about a lawsuit involving Pandora and Chamilia. Contrary to Ms. Riley's recollection and a statement made in her declaration, during the time in which they spoke, there were no other jewelry distributors or customers present. The only other individuals present at the LAD Group booth during their brief conversation were Ms. Henderson's daughter and Mrs. Potter.

Ms. Henderson informed Ms. Riley that the only lawsuit she was aware of concerned the copying of Pandora's jewelry bead designs by Chamilia. Ms. Henderson never indicated to Ms. Riley that Pandora was suing or intended to sue Chamilia based upon its pending patent rights. Ms. Henderson never suggested that Chamilia ". . .soon would not be able to sell its jewelry. . ." In fact, the only lawsuit that Ms. Riley and Ms. Henderson discussed involved the copyright infringement lawsuit against Chamilia which ended in November, 2003.

Ms. Henderson has encountered several customers who have inquired about a lawsuit involving Pandora and Chamilia. When asked by a customer or

potential customer of the Pandora jewelry line about any lawsuit involving the two companies, Ms. Henderson presents a copy of a press release to them so that they can familiarize themselves with the facts of that case. A copy of that press release is attached to Ms. Henderson's Declaration. Ms. Henderson has never advised a customer or potential customer that Pandora would "close down Chamilia with the Pandora patent" or that Chamilia was having "financial problems."

Exhibit F is the Declaration of Mr. Steve Glueck, a sales representative for Pandora who is responsible for promoting and distributing Pandora's jewelry products to retailers in California, Oregon, Washington, Nevada, Arizona and Hawaii. Mr. Glueck has read the Declarations of Lisa Whirlow and Kathy Riley, and has also identified several erroneous and misconstrued statements.

On or about February, 2004, Pandora was an exhibitor at the Winter International Gift Show in San Francisco, California. Mr. Glueck was the only Pandora representative who oversaw and managed the exhibition booth during the days of the Gift Show. Mr. Glueck did not purposefully visit Pettitoner's booth at this show, but on his way to the restroom, he encountered Ms. Whirlow at Chamilia's exhibition booth and introduced himself. Ms. Whirlow and Mr. Glueck discussed the pending copyright infringement suit that Pandora instituted against Chamilia. Significantly, Ms. Whirlow indicated that she regretted that her company (Petitioner) had ever copied Pandora's jewelry beads! She also stated

that she was unaware that Chamilia would copy a competitor's protected jewelry designs.

Ms. Whirlow did inquire with Mr. Glueck about Pandora's patent for its jewelry line. Mr. Glueck stated that Pandora did not own a patent, but that Pandora filed a patent application for its jewelry line, and if such patent application were to issue, Pandora would take the necessary steps to protect those rights. At no such time did Mr. Glueck state to Ms. Whirlow that Pandora owned a patent or that Chamilia had violated Pandora's "patent rights."

At the conclusion of the Gift Show in San Francisco, Mr. Glueck received a telephone call from a gentleman who introduced himself as the vice president of Chamilia. He accused Mr. Glueck of informing a Chamilia customer that Pandora would "close down" Chamilia based on its patent rights. He further advised Mr. Glueck that Pandora and Chamilia should make their jewelry products compatible since there "is enough business for all of us." Mr. Glueck informed the gentleman that Pandora was likely not interested in conducting business with Chamilia. Further, Mr. Glueck advised him that his customer obviously misunderstood any statement he had made. Mr. Glueck reiterated to the caller the same statement he had made to Ms. Whirlow, and advised him that if Pandora's pending patent application issued, Pandora was prepared to take the necessary steps to protect those rights. Mr. Glueck repeated this same statement to several customers or potential customers which inquired about Pandora's "patent rights." Mr. Glueck never advised a customer or potential

customer that Pandora would "close down Chamilia with the Pandora patent" or that Chamilia was having "financial problems."

Finally, Exhibit G contains the Declaration of Mr. Michael Lund Petersen, the president of Pandora Jewelry, LLC ("Pandora Jewelry") and an officer of Pandora Smykker USA Aps, ("Pandora Smykker," and collectively, "Pandora"). Pandora Jewelry is a wholly owned subsidiary of Pandora Smykker, which has its headquarters in Copenhagen, in the Kingdom of Denmark. Mr. Lund has read the Declarations of Lisa Whirlow and Kathy Riley and has also identified several erroneous statements. It was Mr. Lund who, on behalf of Pandora, initiated the two (2) previously mentioned federal lawsuits that sought to enjoin Chamilia and its retailers from selling jewelry which infringes Pandora's copyrights.

In June 2003, Dov Schwartz, a principal of Chamilia, became a customer of the Pandora Jewelry. Mr. Lund believes that during the summer of 2003, Chamilia arranged to have the Pandora jewelry designs reverse engineered in Asia by taking a casting from existing jewelry items and creating a mold. In mid-August 2003, Mr. Lund learned that Chamilia had copied Pandora's collection of jewelry designs and were offering them for sale to Pandora's customers. To confirm that Chamilia had in fact copied Pandora's copyrighted jewelry designs, Mr. Lund attended the San Francisco International Gift Fair in San Francisco, California on August 26 and 27, 2003. On August 26, 2003, Mr. Lund visited Chamilia's booth and discovered that Chamilia was displaying jewelry products which, in fact, were illegal copies of Pandora's jewelry designs. On August 27,

Mr. Lund visited the Chamilia booth again, and encountered Lisa Whirlow. Mr. Lund was not aware that she was a "National Sales Representative" but only that she was a Chamilia sales representative for the southern California area.

During this encounter, Mr. Lund informed Ms. Whirlow that the jewelry imported, marketed and sold by Chamilia were copies of Pandora's copyrighted designs. Mr. Lund also informed Ms. Whirlow that Pandora owned a copyright in Europe and in the United States for all of its jewelry designs, and that in fact, Pandora owned a "worldwide copyright." Ms. Whirlow then told Mr. Lund that there were a number of companies in the jewelry industry that had copied or planned to copy Pandora's jewelry designs.

Mr. Lund notified Ms. Whirlow that Pandora had a patent application pending for the method by which the jewelry beads, clips and spacers are fastened to the bracelets and necklaces. She asked for the patent application number and Mr. Lund told her he did not know it off-hand. Contrary to the statements made in her declaration, Mr. Lund never told Ms. Whirlow that Pandora owned a "worldwide patent." When discussing Pandora's "worldwide" rights, Mr. Lund clearly referred to Pandora's copyrights and not any patent. Furthermore, at no time did he advise her that Pandora would use its patent to "shut down" Chamilia or any of Pandora's competitors.

On August 26, 2003, Mr. Lund had a letter sent to Chamilia demanding that it cease infringing Pandora's jewelry designs. A copy of that letter is annexed hereto as Exhibit H. In that letter, Mr. Lund's attorney informed

Chamilia of Pandora's copyright rights in the jewelry designs and further informed Chamilia that Pandora had filed a "nonprovisional U.S. Patent Application to obtain claims directed to the functional and structural aspects of Pandora's necklaces and bracelets." Shortly after the cease and desist letter was mailed, Mr. Lund's attorney had a telephone conversation with a representative of Chamilia, however, Chamilia did not cease copying Pandora's copyrighted jewelry designs. Despite being put on notice of the strength of Pandora's rights and goodwill in their original and novel jewelry designs, Chamilia continued to distribute jewelry products copying Pandora's jewelry designs in the United States. These illegal activities were ended by the courts in New York and New Jersey.

### Conclusion

Petitioner will very shortly have access to the above-identified patent application as a result of its publication in August of 2004, rendering its Petition moot. Moreover, the allegations that form the basis of Petitioner's arguments that "Special Circumstances" exist are, in fact, simply the result of Petitioner's confusion with regard to the nature of Pandora's assertion of infringement. Petitioner has been threatened, sued, and enjoined for its illegal copying of Pandora's jewelry designs. Although informed of the existence of Pandora's pending patent application, no threat of suit under claims of that application was ever made by Pandora or its employees. The declarations submitted by both

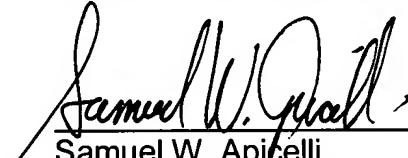
Pandora and Petitioner demonstrate that Chamilia's employees are confused as to what legal issues exist between Pandora and Chamilia. Such confusion simply does not rise to the level of "Special Circumstances" alleged by Petitioner.

Accordingly, Pandora respectfully urges the denial of Chamilia's Petition for Access to the above-identified patent application, under 37 CFR § 1.14(a)(1) and (h).

Date:

June 9, 2004

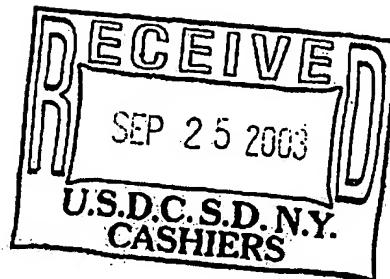
Respectfully Submitted,

  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK



PANDORA JEWELRY, LLC and  
PANDORA SMYKKER USA.APS,

03 CV 7587

Plaintiffs,

-against-

CHAMILIA LLC,

Defendant.

COMPLAINT  
**JUDGE SPRIZZO**

Plaintiffs, Pandora Jewelry, LLC and Pandora Smykker USA.Aps, by their undersigned attorneys, Duane Morris LLP, for their Complaint allege as follows:

**SUBSTANCE OF THE ACTION**

1. This is an action for copyright infringement, trade dress infringement, unfair competition, false designation of origin, statutory anti-dilution and unfair competition, common law unfair competition, deceptive trade practices, dilution, tarnishment and injury to business reputation under the laws of the State of New York. Plaintiffs bring this action based on defendant's unauthorized manufacture, promotion, distribution and sale of jewelry beads, which provides the basis for plaintiffs' claims for copyright infringement under the Copyright Act of 1976, 17 U.S.C. § 101 *et seq.*, for federal trade dress infringement, unfair competition and false designation of origin under Section 43(a) of the Trademark Act of 1946 (the "Lanham Act"), 15

U.S.C. § 1125(a) and for substantial and related claims of unfair competition, deceptive trade practices, dilution, tarnishment and injury to business reputation under the laws of the State of New York. Plaintiffs seek injunctive relief and damages.

#### JURISDICTION AND VENUE

2. This Court has jurisdiction under Section 39 of the Trademark Act of 1946 (the "Lanham Act"), 15 U.S.C. § 1121, and original jurisdiction under Sections 1338(a) and 1338(b) of the Judicial Code, 28 U.S.C. § 1338(a) and § 1338(b), and under principles of supplementary jurisdiction, 28 U.S.C. § 1367. This Court has diversity jurisdiction under 28 U.S.C. § 1332(a) in that the amount in controversy exceeds the sum of \$75,000, exclusive of interest and costs and the parties are citizens of different states. Venue properly lies in this District under Sections 1391(b) and (c) and 1400(a) of the Judicial Code, 28 U.S.C. § 1391(b), § 1391(c) and § 1400(a) because defendant does business in and/or has substantial contacts with and/or may be found in the Southern District of New York, and a substantial portion of the events at issue have arisen and/or will arise in this judicial district.

#### PARTIES

3. Plaintiff, Pandora Jewelry, LLC ("Pandora"), is a limited liability company duly organized and existing under the laws of Maryland with offices at 10015 Old Columbia Road, Suite B-245, Columbia, Maryland 21046. Plaintiff, Pandora Smykker USA Aps ("Pandora Smykker"), is a holding company duly organized and existing under the laws of the Kingdom of Denmark with offices at Vedbaek Strandvej 488, Copenhagen, Denmark, DK-2950. Pandora is a wholly owned subsidiary of Pandora Smykker and is the exclusive distributor of the PANDORA Beads in North America. Plaintiffs do substantial business in this District. Plaintiffs are referred collectively hereinafter as "Pandora" or "plaintiffs."

trade dress consists of the distinctive combination of beads linked together with highly original, distinctive jewelry creating a recognizable and unique combination of colors and designs. Annexed hereto as Exhibit 1 is a printout of plaintiff's catalog of silver and 14-karat gold jewelry showing plaintiffs' trade dress.

9. In Denmark, in 1999, plaintiff Pandora Smykker designed and created original jewelry designs, comprising jewelry beads, spacers, necklaces and bracelets, entitled Pandora Beads (hereinafter "PANDORA Beads"). The said work was created by Pandora Smykker and is copyrightable subject matter under the laws of the Kingdom of Denmark and the United States. The said work was published in Denmark in February 1, 2000 and is protected against unauthorized copying by the laws of the Kingdom of Denmark. Products bearing the jewelry designs have been sold in the United States since November, 2002. Annexed hereto as Exhibit 2 is a copy of the PANDORA Beads copyrighted designs used on the silver and 14-karat jewelry offered for sale and sold by Pandora.

10. Pandora is currently and at all relevant times has been the sole proprietor of all right, title and interest in and to the copyright in the PANDORA Beads. Pandora has produced and distributed the PANDORA Beads in strict conformity with the provisions of the Danish copyright law and the Copyright Act of 1976 and all other laws governing copyright.

11. Pandora operates a website at the domain name address [www.pandora-jewelry.com](http://www.pandora-jewelry.com), which serves to advertise and promote its custom jewelry featuring the PANDORA Beads designs. Annexed hereto as Exhibit 3 is a print-out of plaintiffs' web site located at [www.pandora-jewelry.com](http://www.pandora-jewelry.com).

B. Defendant' Unlawful Activities

12. Upon information and belief, defendant manufactures, distributes and sells custom jewelry products throughout the United States. According to its website located at [www.chamilia.com](http://www.chamilia.com), Chamilia, for over three decades, has been selling jewelry using silver and 14-karat gold handmade by jewelry craftsmen.

13. Prior to the acts complained of herein, Defendant had been designated by Pandora to distribute Pandora's genuine products in the U.S. and did so commencing in November, 2002.

14. Upon information and belief, among the products manufactured, distributed and sold by defendant are silver and 14-karat gold beads threaded onto necklaces and bracelets.

15. Upon information and belief, after the creation and publication of plaintiffs' PANDORA Beads, and with full knowledge of their ownership, the defendant knowingly and willfully copied plaintiffs' PANDORA Beads jewelry designs in their entirety and applied them to silver and 14-karat gold beads. Annexed hereto as Exhibit 4 is a color print-out of defendant's catalog copying plaintiffs' PANDORA Beads. Specifically, the following Item Numbers are accused of infringing the exclusive rights of plaintiff to the copying, use and sale of the PANDORA Beads:

| Item No. |
|----------|----------|----------|----------|----------|----------|----------|
| G-1      | G-13     | H-1      | I-1      | J-1      | J-13     | L-1      |
| G-2      | G-14     | H-2      | I-2      | J-2      | K-1      | L-2      |
| G-3      | G-15     | H-3      | I-3      | J-3      | K-2      | L-3      |
| G-4      | G-16     | H-4      | I-4      | J-4      | K-3      | L-4      |
| G-5      | G-17     | H-5      | I-5      | J-5      | K-4      | L-5      |
| G-6      | G-18     | H-6      | I-6      | J-6      | K-5      | L-6      |
| G-7      | G-19     | H-7      | I-7      | J-7      | K-6      | L-7      |
| G-8      | G-20     | H-8      | I-8      | J-8      | K-7      | L-8      |
| G-9      | G-21     | H-9      | I-9      | J-9      | K-8      |          |
| G-10     | G-22     | H-10     | I-10     | J-10     | K-9      |          |
| G-11     | G-24     | H-11     | I-11     | J-11     | K-10     |          |
| G-12     | G-27     | H-12     | I-12     | J-12     | K-11     |          |

16. Upon information and belief, defendant advertises and markets its infringing silver and 14-karat gold beads through the use of its website located at [www.chamilia.com](http://www.chamilia.com). Annexed hereto as Exhibit 5 is a print-out from defendant's website showing that defendant's products are copies of plaintiffs' PANDORA Beads and are using plaintiffs' trade dress.

17. Upon information and belief, that since at least as early as August 23, 2003, defendant has been reproducing, distributing, promoting and offering for sale illegal and unauthorized copies of the PANDORA Beads.

18. Upon learning of defendant's copying of the PANDORA Beads, on August 26, 2003, plaintiffs' patent counsel, William S. Ramsey, PH.D, sent a letter to defendant demanding, in relevant part, that it cease infringing plaintiffs' PANDORA Beads and trade dress. A copy of that letter is annexed hereto as Exhibit 6.

19. After defendant advised Dr. Ramsey that its attorney would call him, defendant's attorney never called and defendant has not ceased copying plaintiffs' PANDORA Beads and infringing plaintiffs' trade dress.

20. Despite being put on notice of the strength of plaintiffs' rights and goodwill in their original and novel jewelry designs, upon information and belief, defendant continues to expand its distribution of products copying plaintiffs' PANDORA Beads and trade dress in the United States.

21. Upon information and belief, defendant copied the PANDORA Beads for the specific purposes of infringing plaintiffs' copyrights and selling illegal and unauthorized copies of the PANDORA Beads.

22. Upon information and belief, defendant is attempting to pass its products off as if they were plaintiffs' jewelry products in a manner calculated to deceive plaintiffs' customers and

members of the general public, in that defendant has copied the design of plaintiffs' silver and 14-karat gold beads of the PANDORA beads in an effort to make defendant's infringing products confusingly similar to plaintiffs'.

23. The natural, probable and foreseeable result of defendant's wrongful conduct has deprived and will continue to deprive plaintiffs of the benefits of selling plaintiffs' PANDORA Beads and its other products; to deprive plaintiffs of goodwill, and to injure plaintiffs' relations with present and prospective customers.

24. Upon information and belief, plaintiffs have lost and will continue to lose substantial revenues from the sale of the PANDORA Beads and other products and will sustain damage as a result of defendant's wrongful conduct and defendant's production and sale of these infringing products. Defendant's wrongful conduct has also deprived and will continue to deprive plaintiffs of opportunities for expanding its goodwill.

25. Upon information and belief, that unless enjoined by this Court, defendant intends to continue its course of conduct and to wrongfully use, infringe upon, sell and otherwise profit from plaintiffs' PANDORA Beads and works derived from it. As a direct and proximate result of the acts of defendant alleged above, plaintiffs have already suffered irreparable damage and have sustained lost profits. Plaintiffs have no adequate remedy at law to redress all of the injuries that defendant has caused and intends to cause by its conduct. Plaintiffs will continue to suffer irreparable damage and sustain lost profits until defendant's actions alleged above are enjoined by this Court.

**FIRST CLAIM FOR RELIEF**  
**COPYRIGHT INFRINGEMENT (17 U.S.C. § 101 et seq.)**

26. Plaintiffs reallege paragraphs 1 through 25 above and incorporate them by reference as if fully set forth herein.

27. As provided in the Berne Convention, which both the U.S.A. and the Kingdom of Denmark are signators, Pandora is the owner of copyrights obtained under Danish law which are recognized as copyrighted subject matter under U.S. Copyright Law permitting the claim to be filed under 17 U.S.C. § 411(a).

28. The PANDORA Beads were introduced by Pandora at least as early as 1999 in Denmark and have been used to produce plaintiffs' silver and 14-karat gold jewelry beads and sold since that time.

29. The PANDORA Beads were first published in Denmark on February 1, 2000. The PANDORA Beads are original works of authorship, embodying copyrightable subject matter, subject to the full protection of the United States copyright laws. Pandora is currently and at all relevant times has been the sole and exclusive owner of all right, title and interest in and to the copyright in the PANDORA Beads.

30. Upon information and belief, as a result of the open use, display and sales of plaintiffs' silver and 14-karat gold jewelry beads exhibiting the copyrighted PANDORA Beads designs and the striking similarity of defendant's silver and 14-karat gold jewelry beads, defendant had access to the copyrighted PANDORA Beads prior to the sale or distribution of defendant's silver and 14-karat gold jewelry beads.

31. Upon information and belief, after receiving notice of plaintiffs' rights to the PANDORA Beads, defendant, without the permission or authorization of plaintiffs, began and has continued to reproduce original elements of Pandora's copyrighted PANDORA Beads and to promote and offer for sale silver and 14-karat gold jewelry beads that incorporate original elements of Pandora's copyrighted PANDORA Beads.

32. Upon information and belief, defendant has profited from the sales of its silver and 14-karat gold jewelry beads which make use of plaintiffs' copyrighted PANDORA Beads.

33. Upon information and belief, defendant, unless enjoined by this Court, intends to continue its course of conduct and to wrongfully use, infringe upon, distribute and otherwise profit from Pandora's copyrighted PANDORA Beads.

34. The natural, probable and foreseeable results of defendant's wrongful conduct has deprived and continues to deprive Pandora of the rights and benefits granted to it under copyright, including the exclusive right to use, reproduce and exploit Pandora's copyrighted PANDORA Beads and to create derivative works based on those designs, to deprive Pandora of the goodwill in the copyrighted designs, and to injure Pandora's relations with present and prospective customers.

35. By its actions as alleged above, defendant has infringed and violated Pandora's exclusive rights under copyright in violation of the Copyright Act, 17 U.S.C. § 501, by producing, distributing and selling upon the market silver and 14-karat jewelry beads that bear a design that is strikingly similar to Pandora's copyrighted PANDORA Beads, all without Pandora's authorization or consent.

36. Upon information and belief, defendant's infringement of Pandora's copyright is willful and deliberate and defendant have profited at the expense of Pandora.

37. Defendant's conduct has caused and will continue to cause irreparable injury to Pandora unless enjoined by this Court. Pandora has no adequate remedy at law.

**SECOND CLAIM FOR RELIEF**  
**FEDERAL TRADE DRESS INFRINGEMENT (15 U.S.C. § 1125(a)(1))**

38. Plaintiffs reallege paragraphs 1 through 37 above and incorporate them by reference as if fully set forth herein.

39. Defendant's use of a copy, variation, simulation or colorable imitation of the Pandora trade dress for its silver and 14-karat gold jewelry beads infringes plaintiffs' exclusive rights in the Pandora trade dress, is likely to cause confusion, mistake, or deception, and constitutes trade dress infringement, in violation of Section 43 of the Lanham Act, 15 U.S.C. §1125(a)(1).

40. Defendant has used a copy, variation, simulation or colorable imitation of the trade dress of plaintiffs' silver and 14-karat gold jewelry beads with full knowledge of the extensive prior use of the Pandora trade dress by plaintiffs.

41. Defendant's conduct is causing immediate and irreparable injury to plaintiffs, and to their good will and reputation, and will continue both to damage plaintiffs and to confuse the public unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

**THIRD CLAIM FOR RELIEF**  
**FEDERAL UNFAIR COMPETITION (15 U.S.C. § 1125(a)(1)(A))**

42. Plaintiffs reallege paragraphs 1 through 41 above and incorporate them by reference as if fully set forth herein.

43. Defendant's use of a copy, variation, simulation or colorable imitation of plaintiffs' Pandora trade dress for their silver and 14-karat gold jewelry beads constitutes a false designation of origin, a false description and representation of defendant's goods and a false representation that defendant's goods are sponsored, endorsed, licensed, authorized, or affiliated or connected with plaintiffs.

44. Upon information and belief, defendant has used a copy, variation, simulation or colorable imitation of plaintiff's Pandora trade dress with full knowledge of the extensive prior use of the Pandora trade dress by plaintiffs.

45. Upon information and belief, defendant has knowingly adopted and used a copy, variation, simulation or colorable imitation of plaintiffs' Pandora trade dress with full knowledge of the long and extensive prior use of the Pandora trade dress of plaintiffs.

46. Defendant's acts are in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A).

47. Defendant's conduct has caused and will continue to cause irreparable injury to plaintiffs unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

**FOURTH CLAIM FOR RELIEF**  
**COMMON LAW UNFAIR COMPETITION**

48. Plaintiffs reallege paragraphs 1 through 47 above and incorporate them by reference as if fully set forth herein.

49. Upon information and belief, defendant was aware of plaintiffs' prior use of the Pandora trade dress, and adopted and used the similar trade dress in disregard of plaintiffs' prior use and reputation. Upon information and belief, defendant's intentional use of a similar trade dress has resulted in the knowing misappropriation of and trading upon plaintiffs' goodwill and business reputation at plaintiffs' expense and at no expense to defendant. The effect of defendant's misappropriation of the goodwill symbolized by the Pandora trade dress is to unjustly enrich defendant, damage plaintiffs and confuse and/or deceive the public.

50. Defendant's conduct constitutes unfair competition with plaintiffs, all of which has caused and will continue to cause irreparable injury to plaintiffs' good will and reputation unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

**FIFTH CLAIM FOR RELIEF**  
**DILUTION, TARNISHMENT AND INJURY TO BUSINESS REPUTATION**  
**(N.Y. General Business Law § 360-1)**

51. Plaintiffs reallege paragraphs 1 through 50 above and incorporate them by reference as if fully set forth herein.
52. Defendant's use of a copy, variation, simulation or colorable imitation of plaintiffs' Pandora trade dress has caused and will continue to cause the dilution of the distinctive quality of plaintiffs' Pandora trade dress and to injure plaintiffs' business reputation.
53. Defendant's use of a copy, variation, simulation or colorable imitation of plaintiffs' Pandora trade dress in connection with goods not controlled or otherwise subject to plaintiffs' quality control has caused and will continue to cause dilution or and/or injury to the reputation of plaintiffs and plaintiffs' goods.
54. By reason of the foregoing, plaintiffs are entitled to injunctive relief under New York General Business Law §360-1.

**SIXTH CLAIM FOR RELIEF**  
**DECEPTIVE TRADE PRACTICES (N.Y. General Business Law § 349)**

55. Plaintiffs reallege paragraphs 1 through 54 above and incorporate them by reference as if fully set forth herein.
56. By reason of the acts and practices set forth above, defendant has and is engaged in deceptive trade practices or acts in the conduct of a business, trade or commerce, or furnishing of goods and/or services, in violation of § 349 of the New York General Business Law.
57. The public is likely to be damaged as a result of the deceptive trade practices or acts engaged in by the defendant.

58. Unless enjoined by the Court, defendant will continue said deceptive trade practices or acts, thereby deceiving the public and causing immediate and irreparable damage to the plaintiffs. The plaintiffs have no adequate remedy at law.

WHEREFORE, plaintiffs demand judgment as follows:

1. Preliminarily and permanently enjoining defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in active concert and participation with defendant, pursuant to 17 U.S.C. § 502(a) and 15 U.S.C. § 1116, from:

- (a) directly or indirectly infringing plaintiffs' copyrights in the PANDORA Beads or continuing to market, offer, sell, dispose of, license, lease, transfer, display, advertise, reproduce, develop or manufacture any works derived or copied from the PANDORA Beads or to participate or assist in any such activity;
- (b) continuing to market, offer, sell, dispose of, license, transfer, exploit, advertise, reproduce, develop or manufacture any products that bear, contain or incorporate any unauthorized copy or reproduction of the copyrighted PANDORA Beads or any design substantially similar thereto or derived therefrom;
- (c) using any counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of plaintiffs' Pandora trade dress in any manner or form, on or in connection with any business, products or services, or in the marketing, advertising and promotion of same;

- (d) imitating, copying or making any unauthorized use of the Pandora trade dress or any copy, simulation, variation or imitation thereof;
- (e) making or displaying any statement or representation that is likely to lead the public or the trade to believe that defendant's goods are in any manner associated or affiliated with or approved, endorsed, licensed, sponsored, authorized or franchised by or are otherwise connected with plaintiffs;
- (f) using or authorizing any third party to use in connection with the rendering, offering, advertising, or promotion of any goods, any false description, false representation, or false designation of origin, or any marks, names, words, symbols, devices or trade dress which falsely associate such goods or services with plaintiffs or tend to do so;
- (g) diluting the distinctive quality of plaintiffs' Pandora trade dress;
- (h) engaging in any other activity constituting unfair competition with plaintiffs, or constituting an infringement of plaintiffs' Pandora trade dress, or of plaintiffs' rights therein; and
- (i) aiding, assisting or abetting any other party in doing any act prohibited by sub-paragraphs (a) through (h).

2. Requiring defendant's infringing products including all molds and casts, catalogues and all jewelry beads bearing the infringing designs be first, during the pendency of this action, be impounded on such terms as this Court may deem reasonable and thereafter be destroyed by all reasonable means pursuant to 17 U.S.C. § 503.

3. Requiring defendant to formally abandon with prejudice any and all

applications to register any copyright consisting of, or containing, the PANDORA Beads either alone or in combination with other words and/or designs.

4. Requiring defendant to recall immediately any and all products that feature or bear or are packaged in materials bearing any designation or mark including or incorporating the Pandora trade dress from all of their distributors, retail establishments or wholesale establishments wherever located in the U.S., and to direct all such distributors, retail establishments or wholesale establishments to cease forthwith the distribution or sale of any and all products or goods featuring or bearing any designation including or incorporating the Pandora trade dress; and to immediately remove them from public access.

5. Directing that defendant deliver for destruction all products and goods, advertisements for such, and other related materials in its possession, or under its control, incorporating or bearing simulations, variations or colorable imitations of plaintiffs' Pandora trade dress or PANDORA Beads, used alone or in combination with other words and/or designs.

6. Directing such other relief as the Court may deem appropriate to prevent the trade and public from deriving the erroneous impression that any product or service manufactured, sold, distributed, licensed or otherwise offered, circulated or promoted by defendant is authorized by plaintiffs or related in any way to plaintiffs' products.

7. Directing that defendant file with the Court and serve upon plaintiffs' counsel within thirty (30) days after entry of such judgment, a report in writing under oath, setting forth in detail the manner and form in which defendant has complied therewith.

8. Awarding plaintiffs such damages as they have sustained or will sustain by reason of defendant's copyright infringement, trademark infringement, trade dress infringement, dilution and unfair competition.

9. Awarding plaintiffs all gains, profits, property and advantages derived by defendant from such conduct; and pursuant to 15 U.S.C. § 1117, awarding plaintiffs an amount up to three times the amount of the actual damages sustained as a result of defendant's violation of the Lanham Act.

10. Awarding plaintiffs all gains, profits, property and advantages obtained or derived by the defendant from its acts of copyright infringement or, in lieu thereof, should plaintiffs so elect, such statutory damages as the Court shall deem proper, as provided in 17 U.S.C. §504(c), including damages for willful infringement of up to \$150,000 for each infringement.

11. Awarding plaintiffs exemplary and punitive damages to deter any future willful infringement as the Court finds appropriate.

12. Awarding plaintiffs their costs and disbursements incurred in this action, including their reasonable attorneys' fees, as provided in 17 U.S.C. § 505 and 15 U.S.C. § 1117.

13. Awarding plaintiffs interest, including pre-judgment interest, on the foregoing sums.

Dated: New York, New York  
September 25, 2003

Respectfully submitted,

DUANE MORRIS LLP

By: William R. Hansen / gm

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Gianfranco G. Mitrione (GM-8618)  
380 Lexington Avenue  
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(212) 692-1000

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Pandora Smykker USA Aps

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New York, New York 10168  
(212) 692-1000  
Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X  
PANDORA JEWELRY, LLC and :  
PANDORA SMYKKER USA APS, :  
Plaintiffs, : Civil Action No:  
-against- : 03 CIV 7587 (JES)  
CHAMILIA LLC, :  
Defendant. :  
-----X

**TEMPORARY RESTRAINING ORDER AND IMPOUNDMENT,  
AND ORDER TO SHOW CAUSE FOR A PRELIMINARY INJUNCTION**

Upon the Complaint filed herein, the Memorandum of Law in Support of Plaintiffs' Application for a Temporary Restraining Order and Seizure, Impoundment, and Recall Orders and Order to Show Cause for a Preliminary Injunction, the sworn declaration of Michael Lund Petersen dated October 2, 2003, and the affidavit of William R. Hansen dated October 2, 2003 and the exhibits thereto, it is hereby:

ORDERED, that pending the formal hearing on plaintiffs' order to show cause for a preliminary injunction, that defendants, their agents, servants, employees, attorneys and any person acting in concert or participation with any of them, or having knowledge of this Order by personal service or otherwise, be and are hereby restrained from copying the plaintiff's copyright jewelry designs depicted in Exhibit A to this Order and designated by the U.S. Copyright office with VA-1-208-549 ("PANDORA Beads"), and from:

- (a) directly or indirectly infringing plaintiffs' copyrights in the PANDORA Beads or continuing to market, offer, sell, dispose of, license, lease, transfer, display, advertise, reproduce, develop or manufacture any works derived or copied from the PANDORA Beads or to participate or assist in any such activity;
- (b) continuing to market, offer, sell, dispose of, license, transfer, exploit, advertise, reproduce, develop or manufacture any products that bear, contain or incorporate any unauthorized copy or reproduction of the copyrighted PANDORA Beads or any design substantially similar thereto or derived therefrom;
- (c) using any counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of plaintiffs' Pandora trade dress in any manner or form, on or in connection with any business, products or services, or in the marketing, advertising and promotion of same;
- (d) imitating, copying or making any unauthorized use of the Pandora trade dress or any copy, simulation, variation or imitation thereof;
- (e) making or displaying any statement or representation that is likely to lead the public or the trade to believe that defendant's goods are in any manner associated or affiliated with or approved, endorsed, licensed, sponsored, authorized or franchised by or are otherwise connected with plaintiffs;
- (f) using or authorizing any third party to use in connection with the rendering, offering, advertising, or promotion of any goods, any false description, false representation, or false designation of origin, or any marks, names, words, symbols, devices or trade dress which falsely associate such goods or services with plaintiffs or tend to do so;
- (g) diluting the distinctive quality of plaintiffs' Pandora trade dress;

(h) engaging in any other activity constituting unfair competition with plaintiffs, or constituting an infringement of plaintiffs' Pandora trade dress, or of plaintiffs' rights therein; and

(i) aiding, assisting or abetting any other party in doing any act prohibited by sub-paragraphs (a) through (h).

IT IS FURTHER ORDERED that the Temporary Restraining Order shall remain in effect until the Court renders a decision on the merits of the relief sought by the Order to Show Cause set forth below, or such further date as set by the Court, unless defendants, or any of them, so stipulate or have not objected to the relief requested.

IT IS FURTHER ORDERED that this Court hereby issues an order pursuant to 17 U.S.C. § 503 directed to the U.S. Marshal for the district or other law enforcement officer where articles to be seized are located, directing the Marshal or other law enforcement officer to immediately go to the premises located at 64-09 Booth Street, Second Floor, Rego Park, NY 11374.

a. to seize, hold, and impound all catalogues and all jewelry beads bearing the infringing designs;

b. to seize and hold, subject to the further order of this Court, all advertising and promotional material relating to

c. to serve on the defendants and on any person in whose possession any infringing articles are found, a copy of this Impoundment Order, and of the Complaint filed in this action on September 25, 2003, and a copy of the Declarations of Michael Lund and William R. Hansen, and exhibits thereto, and on which this Order is based, a copy of the motion papers filed with the Court on October 2, 2003 and a copy of the bond in the amount ordered herein be filed on or before \_\_\_\_\_, 2003. Plaintiffs' counsel shall supply the Clerk of this Court

sufficient copies of all these papers so that the Clerk may supply them to the Marshal or other law enforcement officer who will serve them with this Order of Impoundment and Seizure and provide these copies to the Clerk as soon as possible after this Order is signed.

d. to file with this Court a proof of service or return on service indicating who was served by whom, when service occurred and by what manner.

e. to attach to all seized articles a tag or label stating the fact of the seizure and warning all persons from interfering with the seizure in any manner.

IT IS FURTHER ORDERED, that defendants or their attorneys show cause at a motion part of this Court to be held before the Hon. John E. Sprizzo, in Courtroom 705 of the U.S.

District Court, Foley Square, 40 Centre Street, New York, New York on the 7 day of October 2003, at 11 : A.M. o'clock m. or as soon thereafter as counsel can be heard, why the Order of Impoundment and Seizure pursuant to 17 U.S.C. § 503 and Rule 65 of the Federal Rules of Civil Procedure to seize and impound all articles infringing plaintiffs' copyright and trade dress, the Recall Order to recall immediately any and all infringing jewelry beads, which are currently in the possession of defendants, their officers, directors, agents, servants, employees and attorneys and all persons in active concert and participation with them, were improperly issued; and why an order should not be issued granting a Preliminary Injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining and restraining defendants, their officers, directors, agents, servants, employees and attorneys and all persons in active concert and participation with any of them preliminarily, pending the trial and determination of this action and until further order of this Court, from, in any manner taking any action listed above in the Temporary Restraining Order and requiring them to take all actions directed above in the Temporary Restraining Order.

IT IS FURTHER ORDERED that service of this Order and all documents supporting the request for a Preliminary Injunction and Impoundment be made on Ira J. Levy, Esq., Goodwin, Procter, counsel for defendant at their offices at 599 Madison Avenue, New York, New York on \_\_\_\_\_, 2003 by \_\_\_\_\_ p.m. by hand delivery which will be sufficient service.

*g. M. 10-5-03 rt 5:00pm*  
IT IS FURTHER ORDERED that plaintiff furnish a bond or surety in the sum of \$5000 which is deemed adequate security for payment of damages and costs which may be incurred by defendant if it is finally determined that the relief granted herein was improvidently granted.

IT IS FURTHER ORDERED that opposition papers, if any, be served by counsel for defendant by hand delivered to counsel for plaintiff no later than \_\_\_\_\_ p.m. on \_\_\_\_\_, 2003.

IT IS FURTHER ORDERED, that plaintiffs are given leave to amend the Complaint to name additional parties as defendants; to correct misnomers and to identify other works alleged to have been infringed by defendant.

IT IS FURTHER ORDERED, that the parties on behalf of whom the order is being issued, are authorized under the supervision and with the assistance of the U.S. Marshal, to take all necessary steps to secure and impound the following property:

- (a) all infringing beads which infringe the plaintiffs' copyright attached hereto as Exhibit A and
- (b) all advertising and promotional material relating to the infringing beads held by the defendant that may be found on the premises located at 64-09 Booth Street, Second Floor, Rego Park, NY 11374, including breaking open, entering and searching for said property and placing it with an appropriate storage facility; and it if further

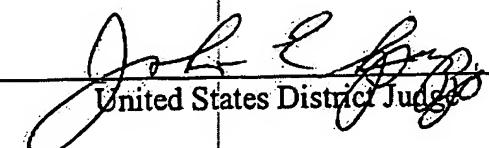
ORDERED that anyone interfering with the execution of this Order is subject to arrest by the United States Marshal and/or his or her representative; and it is further

ORDERED that Pandora, on whose behalf the court issues this Order, will account completely for all property impounded pursuant to this order and shall compile a written inventory of all such property and shall provide a copy to the U.S. Marshal, who shall include such a copy with his return to the court; and it is further

ORDERED that Pandora, on whose behalf the Court issues this Order, will act as substitute custodian of any and all property seized pursuant to this Order and shall hold harmless the U.S. Marshals Service and its employees from any and all claims, asserted in any court or tribunal, arising from any acts, incidents, or occurrences in connection with the seizure and possession of the defendant property, including any third-party claims.

Dated: New York, New York  
October 2, 2003

6:00 P.M.

  
John E. Gilligan  
United States District Judge

ORIG

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DUANE MORRIS LLP  
 William R. Hansen (WH-9446)  
 Gianfranco G. Mitrione (GM-8618)  
 380 Lexington Avenue  
 New York, New York 10168  
 (212) 692-1000  
 Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
 FOR THE SOUTHERN DISTRICT OF NEW YORK



PANDORA JEWELRY, LLC and	:	X
PANDORA SMYKKER USA APS,	:	
Plaintiffs,	:	Civil Action No. 03 CIV 7587 (JES)
-against-	:	
CHAMILIA LLC,	:	FINAL JUDGMENT
Defendant.	:	ON CONSENT
	X	

The parties to this action having agreed upon a basis for resolving and settling the issues before this Court, it is:

ORDERED, ADJUDGED AND DECREED:

1. This Court has jurisdiction over the subject matter of this action and over the parties hereto who have consented to entry of this judgment.
2. Plaintiff, Pandora Jewelry, LLC ("Pandora"), is the owner of United States Copyright Registration Number VA 1-208-549 issued on September 4, 2003 entitled "Pandora Beads" consisting of designs for silver and 14-karat gold jewelry beads, spacers, clips, bracelets and necklaces ("PANDORA Jewelry"). Copies of the registration certificate and the underlying PANDORA Jewelry designs are annexed hereto as Exhibit 1. Plaintiffs have alleged that the defendant, Chamilia LLC, has violated certain of its rights by manufacturing, promoting,

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offering for sale and distributing within this judicial district, jewelry products which copy plaintiffs' copyrighted PANDORA Jewelry designs ("CHAMILIA Jewelry").

3. This Court granted plaintiffs' application for a temporary restraining order brought on by order to show cause on October 2, 2003 and enjoined the defendant, and any other person acting in concert or participation with it, from, inter alia, copying plaintiffs' copyrighted PANDORA Jewelry designs and promoting, selling or distributing the CHAMILIA Jewelry. A copy of the October 2, 2003 temporary restraining order is attached hereto as Exhibit 2.

4. Final Judgment is hereby entered in favor of Pandora against Chamilia LLC on Count I of the Complaint, for Copyright Infringement, and all other Counts are hereby dismissed subject to Paragraphs 10 and 11 herein.

5. The defendant hereby consents to a permanent injunction, as provided in 17 U.S.C. § 502, in the form set forth in paragraphs 6, 7 and 8 below.

6. From the day of entry of this consent judgment, the defendant, its agents, servants, employees, attorneys and any person acting in concert or participation with any of them are hereby permanently restrained from copying, manufacturing, promoting, selling and distributing any of plaintiffs' copyrighted PANDORA Jewelry designs as set forth in U.S. Copyright Registration Number VA 1-208-549 and as depicted in Exhibit 1 hereto.

7. At the time of execution of this consent judgment, defendant shall pay over as an advance for the accounting to be done pursuant to paragraph 8(b) the amount of \$110,000.

8. Within ten (10) days of the execution of this consent judgment, defendant shall:

(a) account for all infringing jewelry imported into the U.S. and supply all U.S. Customs forms and declarations to the attorneys for plaintiffs in order to confirm the total number of infringing jewelry imported into the U.S.;

(b) as provided in 17 U.S.C. § 504 account for and pay over to plaintiffs one half of defendant's gross sales of its CHAMILIA Jewelry products in an amount no less than \$110,000.00;

(c) melt down into bullion or otherwise destroy any and all existing inventory of the CHAMILIA Jewelry products in the possession of the defendant or any of its principals;

(d) provide plaintiffs with the identity and location of the factory(ies) which produced the CHAMILIA Jewelry products for the defendant; and

(e) provide plaintiffs with the identity and location of defendant's customers and distributors of the CHAMILIA Jewelry products.

9. Within twenty (20) days of execution of this Final Judgment on Consent, defendant shall submit a written undertaking to the plaintiffs, which may be filed with the Clerk of this Court, stating under oath that any and all manufacture, promotion and sale of the CHAMILIA Jewelry products has ceased; existing inventory of the CHAMILIA Jewelry products have been melted down or otherwise destroyed and that defendant is in full compliance with all the terms of this Final Judgment on Consent.

10. In the event of a default or breach of any material provisions of this Final Judgment on Consent by the defendant at any time during the duration of Copyright VA 1-208-549, defendant consents to the jurisdiction of this Court to hear any allegation that the permanent injunction has been violated. If such violation is found, plaintiffs shall be entitled to all costs and expenses including attorneys' fees arising out of said default or breach, paid or incurred by plaintiffs in enforcing and in obtaining defendant's full performance of this Final Judgment on Consent in addition to any fines, damages or injunctive relief awarded by this Court. If violation

of this Final Judgment on Consent is not found, plaintiff shall pay to defendant all costs and expenses including attorneys' fees arising out of defendant's efforts in defending such action.

11. This Final Judgment on Consent is in full settlement of all claims and defenses by and between the parties hereto with respect to Count I of the Complaint and shall constitute a final adjudication on the merits as to all damages claimed by plaintiffs and defenses which could have been raised by defendant hereto relating to the subject matter in Count I of the plaintiffs' complaint. However, nothing in this Final Judgment on Consent waives plaintiffs' rights under both federal law and the statutory and common law of the State of New York including but not limited to inter alia, an ex parte seizure and/or impoundment order, monetary sanctions and costs, lost profits, treble damages, and punitive damages, should an action or motion be warranted by defendant's future conduct with respect to any acts prohibited by the terms of this Final Judgment on Consent.

12. The Clerk of the Court is hereby directed to release any undertaking which may have been posted by the plaintiffs pursuant to the October 2, 2003 temporary restraining order issued by this Court.

Dated: New York, New York  
November 25, 2003

  
John L. Springer  
U.S.D.J.

The parties and their respective attorneys, hereby consent to the entry of the foregoing judgment.

Dated: Columbia, Maryland  
November 21, 2003

By:

  
Michael Lund Petersen, for  
Pandora Jewelry, LLC and  
Pandora Smykker USA Aps

Dated: New York, New York  
November 24, 2003

By:

  
DUANE MORRIS LLP  
William R. Hansen (WH-9446)  
380 Lexington Avenue  
New York, New York 10168  
(212) 692-1000

Attorneys for Plaintiffs  
Pandora Jewelry, LLC and  
Pandora Smykker USA Aps

Dated: New York, New York  
November , 2003

By:

Jeff Julkowski, for  
Chamilia LLC

Dated: New York, New York  
November , 2003

By:

GOODWIN PROCTER LLP  
Ira J. Levy (IL- )  
599 Lexington Avenue  
New York, New York 10022  
(212) 813-8800

Attorneys for Defendant  
Chamilia LLC

The parties and their respective attorneys, hereby consent to the entry of the foregoing judgment.

Dated: Columbia, Maryland  
November , 2003

By: \_\_\_\_\_  
Michael Lund Petersen, for  
Pandora Jewelry, LLC and  
Pandora Smykker USA Aps

Dated: New York, New York  
November , 2003

By: \_\_\_\_\_  
DUANE MORRIS LLP  
William R. Hansen (WH-9446)  
380 Lexington Avenue  
New York, New York 10168  
(212) 692-1000

Attorneys for Plaintiffs  
Pandora Jewelry, LLC and  
Pandora Smykker USA Aps

Dated: New York, New York  
November , 2003

By: \_\_\_\_\_  
Jeff Julkowski, for  
Chamilia LLC

Dated: New York, New York  
November 24, 2003

By: \_\_\_\_\_  
GOODWIN PROCTER LLP  
Ira J. Levy (IL-2632)  
599 Lexington Avenue  
New York, New York 10022  
(212) 813-8800

Attorneys for Defendant  
Chamilia LLC

## CERTIFICATE OF REGISTRATION



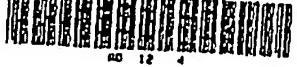
OFFICIAL SEAL

This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

REGISTER OF COPYRIGHTS  
United States of America

## FORM VA

For UNI REC  
VA 1-208-549



VA  
EFFECTIVE DATE OF REGISTRATION

Sept. 4 2003  
Month Day Year

DO NOT WRITE ABOVE THIS LINE: IF YOU NEED MORE SPACE USE A SEPARATE CONTINUATION SHEET

**1**

## TITLE OF THIS WORK ▼

PANDORA BEADS

## NATURE OF THIS WORK ▼ See Instructions

Jewelry Design

## PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

**2**NAME OF AUTHOR ▼  
**a** Pandora Jewelry, Limited Liability Company

Was this contribution to the work a work made for hire?  
 Yes  
 No

AUTHOR'S NATIONALITY OR DOMICILE  
 Name of Country  
 OR Citizen of ►  United States  
 Domiciled in ►

DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK  
 Anonymous?  Yes  No  
 Pseudonymous?  Yes  No

If the answer to either of these questions is "Yes" see detailed instructions

## NOTE

Under the law the author of a work made for hire is generally the employer of the employee (see Inst. 1c). For any part of this work that was made for hire check "Y" in the space provided give the employer (or other person for whom the work was made) as Author of that part and in both spaces for dates of birth and death indicate

## NATURE OF AUTHORSHIP Check appropriate box(es) See Instructions

- 3 Dimensional sculpture
- Map
- Technical drawing
- 2 Dimensional artwork
- Photograph
- Text
- Reproduction of work of art
- Jewelry design
- Architectural work
- Design on sheetlike material

NAME OF AUTHOR ▼  
**b**DATES OF BIRTH AND DEATH  
Year Born ▼ Year Died ▼

Was this contribution to the work a work made for hire?  
 Yes  
 No

AUTHOR'S NATIONALITY OR DOMICILE  
 Name of Country  
 OR Citizen of ►   
 Domiciled in ►

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK  
 Anonymous?  Yes  No  
 Pseudonymous?  Yes  No

If the answer to either of these questions is "Yes" see detailed instructions

## NATURE OF AUTHORSHIP Check appropriate box(es) See Instructions

- 3-Dimensional sculpture
- Map
- Technical drawing
- 2 Dimensional artwork
- Photograph
- Text
- Reproduction of work of art
- Jewelry design
- Architectural work
- Design on sheetlike material

**3**YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED This information must be given  
1999 **a** Year in all cases

b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK  
 Complete this information ONLY if this work has been published Month ► February Day ► 1 Year ► 2000  
 Denmark

**4**COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2 ▼  
**a** Pandora Jewelry, Limited Liability Company  
10015 Old Columbia Road  
Suite B-215, Columbia, Maryland 21046

See instructions before completing this space

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright ▼

APPLICATION RECEIVED

Sept. 4, 2003

ONE DEPOSIT RECEIVED

Sept. 4, 2003

TWO DEPOSITS RECEIVED

FUND RECEIVED

PANDORA BEADS

0 1 cm

PHOORA BEADS

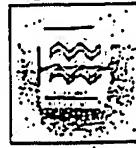
0.1 cm

Suggested retail prices in USD

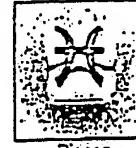
Zodiac - sterling silver \$13.



Capricorn  
79141



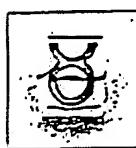
Aquarius  
79142



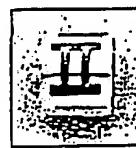
Pisces  
79143



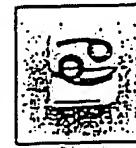
Aries  
79144



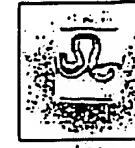
Taurus  
79145



Gemini  
79146



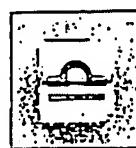
Cancer  
79147



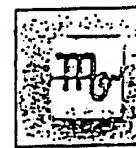
Leo  
79148



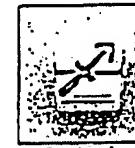
Virgo  
79149



Libra  
79150

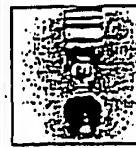


Scorpio  
79151



Sagittarius  
79152

Birth stone - sterling silver \$21.



January  
Garnet  
79166 Gr



February  
Amethyst  
79165 Am



March  
Aquamarine  
79166 Aq



April  
Quartz  
79166 Bk



May  
Chrysoprase  
79166 Ch



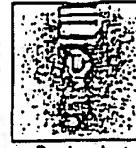
June  
Pearl  
79166 P



July  
Cameo  
79166 K



August  
Peridot  
79166 Pe



September  
Coral  
79166 Ko



October  
Turmaline  
79166 Tu



November  
Amber  
79166 R



December  
Lapis  
79166 L

Beads with gem - sterling silver



79120 Cz  
\$25.



79120.pCz  
\$26.



79127 Gr  
\$26.



79127. Pe  
\$26.



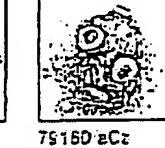
79134 Cz  
\$26.



79134 pCz  
\$26.



79160 Cz  
\$30.



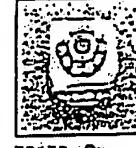
79160.aCz  
\$30.



79160.aCz  
\$30.



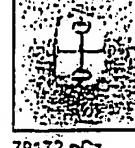
79170 Cz  
\$26.



79170.aCz  
\$26.



79172 Cz  
\$30.



79172.pCz  
\$30.



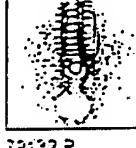
791E2 Cz  
\$32.



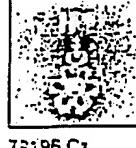
791E5.Cz  
\$25..



79217 Ms  
\$26.



79132 P  
\$18.



79195 Cz  
\$26.



79196.aCz  
\$26.



79208 ICz  
\$30.

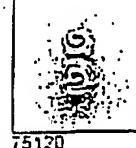
Beads - 14k gold



75117  
\$120.



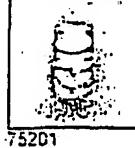
75119  
\$120.



75120  
\$95.



75121  
\$125.



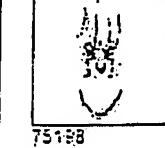
75201  
\$100.



75215.Cz  
\$124.



75215.aCz  
\$124.



75198  
\$109.



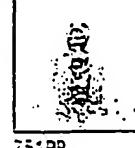
75122  
\$89.



75130  
\$50.



75131  
\$50.



75199.  
\$40.



75203  
\$75.



PANJORA BEADS

0 1 cm

- (a) directly or indirectly infringing plaintiffs' copyrights in the PANDORA Beads or continuing to market, offer, sell, dispose of, license, lease, transfer, display, advertise, reproduce, develop or manufacture any works derived or copied from the PANDORA Beads or to participate or assist in any such activity;
- (b) continuing to market, offer, sell, dispose of, license, transfer, exploit, advertise, reproduce, develop or manufacture any products that bear, contain or incorporate any unauthorized copy or reproduction of the copyrighted PANDORA Beads or any design substantially similar thereto or derived therefrom;
- (c) using any counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of plaintiffs' Pandora trade dress in any manner or form, on or in connection with any business, products or services, or in the marketing, advertising and promotion of same;
- (d) imitating, copying or making any unauthorized use of the Pandora trade dress or any copy, simulation, variation or imitation thereof;
- (e) making or displaying any statement or representation that is likely to lead the public or the trade to believe that defendant's goods are in any manner associated or affiliated with or approved, endorsed, licensed, sponsored, authorized or franchised by or are otherwise connected with plaintiffs;
- (f) using or authorizing any third party to use in connection with the rendering, offering, advertising, or promotion of any goods, any false description, false representation, or false designation of origin, or any marks, names, words, symbols, devices or trade dress which falsely associate such goods or services with plaintiffs or tend to do so;
- (g) diluting the distinctive quality of plaintiffs' Pandora trade dress;

(h) engaging in any other activity constituting unfair competition with plaintiffs, or constituting an infringement of plaintiffs' Pandora trade dress, or of plaintiffs' rights therein; and

(i) aiding, assisting or abetting any other party in doing any act prohibited by sub-paragraphs (a) through (h).

IT IS FURTHER ORDERED that the Temporary Restraining Order shall remain in effect until the Court renders a decision on the merits of the relief sought by the Order to Show Cause set forth below, or such further date as set by the Court, unless defendants, or any of them, so stipulate or have not objected to the relief requested.

IT IS FURTHER ORDERED that this Court hereby issues an order pursuant to 17 U.S.C. § 503 directed to the U.S. Marshal for the district or other law enforcement officer where articles to be seized are located, directing the Marshal or other law enforcement officer to immediately go to the premises located at 64-09 Booth Street, Second Floor, Rego Park, NY 11374.

a. to seize, hold, and impound all catalogues and all jewelry beads bearing the infringing designs;

b. to seize and hold, subject to the further order of this Court, all advertising and promotional material relating to

c. to serve on the defendants and on any person in whose possession any infringing articles are found, a copy of this Impoundment Order, and of the Complaint filed in this action on September 25, 2003, and a copy of the Declarations of Michael Lund and William R. Hansen, and exhibits thereto, and on which this Order is based, a copy of the motion papers filed with the Court on October 2, 2003 and a copy of the bond in the amount ordered herein be filed on or before \_\_\_\_\_, 2003. Plaintiffs' counsel shall supply the Clerk of this Court

sufficient copies of all these papers so that the Clerk may supply them to the Marshal or other law enforcement officer who will serve them with this Order of Impoundment and Seizure and provide these copies to the Clerk as soon as possible after this Order is signed.

- d. to file with this Court a proof of service or return on service indicating who was served by whom, when service occurred and by what manner.
- e. to attach to all seized articles a tag or label stating the fact of the seizure and warning all persons from interfering with the seizure in any manner.

IT IS FURTHER ORDERED, that defendants or their attorneys show cause at a motion part of this Court to be held before the Hon. John E. Sprizzo, in Courtroom 705 of the U.S.

District Court, Foley Square, 40 Centre Street, New York, New York on the 7 day of October 2003, at 11:45 o'clock m. or as soon thereafter as counsel can be heard, why the Order of Impoundment and Seizure pursuant to 17 U.S.C. § 503 and Rule 65 of the Federal Rules of Civil Procedure to seize and impound all articles infringing plaintiffs' copyright and trade dress, the Recall Order to recall immediately any and all infringing jewelry beads, which are currently in the possession of defendants, their officers, directors, agents, servants, employees and attorneys and all persons in active concert and participation with them, were improperly issued; and why an order should not be issued granting a Preliminary Injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure, enjoining and restraining defendants, their officers, directors, agents, servants, employees and attorneys and all persons in active concert and participation with any of them preliminarily, pending the trial and determination of this action and until further order of this Court, from, in any manner taking any action listed above in the Temporary Restraining Order and requiring them to take all actions directed above in the Temporary Restraining Order.

IT IS FURTHER ORDERED that service of this Order and all documents supporting the request for a Preliminary Injunction and Impoundment be made on Ira J. Levy, Esq., Goodwin, Procter, counsel for defendant at their offices at 599 Madison Avenue, New York, New York on 2003 by p.m. by hand delivery which will be sufficient service.

*Def. 10-5-03 at 5:00 PM*  
IT IS FURTHER ORDERED that plaintiff furnish a bond or surety in the sum of \$5000 which is deemed adequate security for payment of damages and costs which may be incurred by defendant if it is finally determined that the relief granted herein was improvidently granted.

IT IS FURTHER ORDERED that opposition papers, if any, be served by counsel for defendant by hand delivered to counsel for plaintiff no later than p.m. on 2003.

IT IS FURTHER ORDERED, that plaintiffs are given leave to amend the Complaint to name additional parties as defendants, to correct misnomers and to identify other works alleged to have been infringed by defendant.

IT IS FURTHER ORDERED, that the parties on behalf of whom the order is being issued, are authorized under the supervision and with the assistance of the U.S. Marshal, to take all necessary steps to secure and impound the following property:

- (a) all infringing beads which infringe the plaintiffs' copyright attached hereto as Exhibit A and
- (b) all advertising and promotional material relating to the infringing beads held by the defendant that may be found on the premises located at 64-09 Booth Street, Second Floor, Rego Park, NY 11374, including breaking open, entering and searching for said property and placing it with an appropriate storage facility; and if further

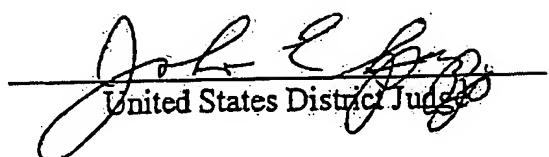
ORDERED that anyone interfering with the execution of this Order is subject to arrest by the United States Marshal and/or his or her representative; and it is further

ORDERED that Pandora, on whose behalf the court issues this Order, will account completely for all property impounded pursuant to this order and shall compile a written inventory of all such property and shall provide a copy to the U.S. Marshal, who shall include such a copy with his return to the court; and it is further

ORDERED that Pandora, on whose behalf the Court issues this Order, will act as substitute custodian of any and all property seized pursuant to this Order and shall hold harmless the U.S. Marshals Service and its employees from any and all claims, asserted in any court or tribunal, arising from any acts, incidents, or occurrences in connection with the seizure and possession of the defendant property, including any third-party claims.

Dated: New York, New York  
October 2, 2003

6:06 P.M.

  
John E. Facciola  
United States District Judge





# PANDORA

PANDORA BEADS

0 1 cm

Suggested retail prices in USD

## Beads - sterling silver

79112 \$13.	79113 \$13.	79114 \$13.	79115 \$13.	79116 \$13.	79117 \$13.	79118 \$13.	79119 \$13.
79123 \$13.	79124 \$13.	79125 \$13.	79126 \$13.	79128 \$13.	79129 \$13.	79135 \$13.	79136 \$13.
79157 \$13.	79158 \$13.	79159 \$13.	79161 \$13.	79162 \$13.	79165 \$13.	79171 \$13.	79174 \$13.
79175 \$13.	79166 \$13.	79157 \$13.	79189 \$13.	79202 \$13.	79205 \$13.	79211 \$13.	79212 \$13.
79213 \$13.	79214 \$13	Eternity 79190 \$13.	Peace 79191 \$13.	Harmony 79192 \$13.	Love 79193 \$13.	Happiness 79194 \$13.	Friendship 79195 \$13.
79133 \$21.	79163 \$21.						

## Spacers - sterling silver

75100 \$5.	75101 \$5.	75102 \$5.	79103 \$5.	79104 \$5.	79154 \$7.	79155 \$7.	75156 \$7.
79175 \$7.	79177 \$7.	79151 \$7.	79197 \$7.	79204 \$7.	79235 \$7.		

MADORA BEADS

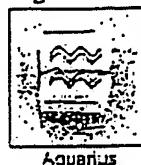
0.1 cm

Suggested retail prices in USD

Zodiac - sterling silver \$13.



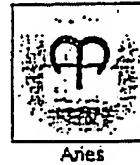
Capricorn  
79141



Aquarius  
79142

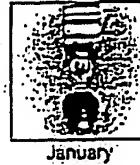


Pisces  
79143



Aries  
79144

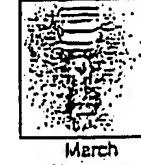
Birth stone - sterling silver \$21.



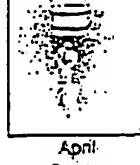
January  
Gemel  
79155 Gr



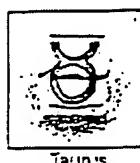
February  
Amethyst  
79155 Am



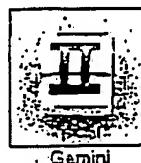
March  
Aquamarine  
79155 Aq



April  
Quartz  
79155 Bk



Taurus  
79145



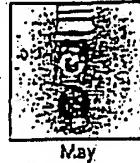
Gemini  
79146



Cancer  
79147



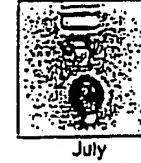
Leo  
79148



May  
Chrysoprase  
79155 Ch



June  
Pearl  
79155 P



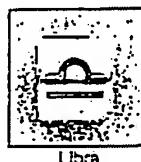
July  
Cameo.  
79155 K



August  
Peridot  
79155 Pe



Virgo  
79149



Libra  
79150



Scorpio  
79151



Sagittarius  
79152



September  
Coral  
79155 Ko



October  
Turmaline  
79155 Tu



November  
Amber  
79155 R



December  
Lapis  
79155 L

Beads with gem - sterling silver



79120 Cz  
\$25.



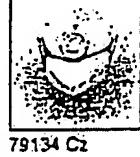
79120 pCz  
\$26.



79127 Gr  
\$26.



79127 Pe  
\$26.



79134 Cz  
\$25.



79134 pCz  
\$26.



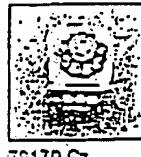
79150 Cz  
\$30..



79150 aCz  
\$30.



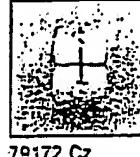
79170 Cz  
\$30.



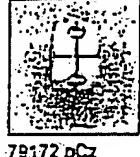
79170 pCz  
\$26.



79172 Cz  
\$26.

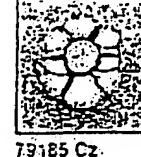


79172 pCz  
\$30.



79182 Cz.  
\$32:

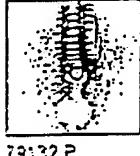
79182 Cz.  
\$32:



79185 Cz.  
\$25.



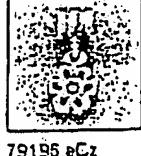
79185 aCz  
\$26.



79192 P  
\$19.



79195 Cz  
\$26.



79195 aCz  
\$26.

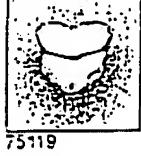


79208 ICz  
\$30.

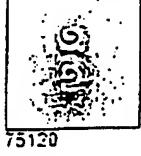
Beads - 14k gold



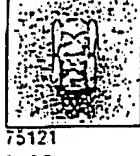
75117  
\$120.



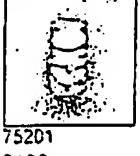
75119  
\$120.



75120  
\$95.



75121  
\$125.



75201  
\$100.



75215 Cz  
\$124.



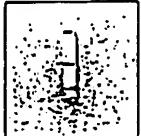
75215 aCz  
\$124.



75122  
\$109.



75130  
\$50.



75131  
\$50.



75189  
\$40.



75203  
\$75.

✓ NIVOURN VENUS

0 1 cm

Jewelry

Suggested retail prices in USD

Page 3.

## Beads - sterling silver with 14k gold

79118 \$58.	79122 \$34.	79125 \$28.	79139 \$51.	79153 \$36.	79164 D with diamonds \$94.	79167 \$37.	79168 \$27.
79169 \$50.	79173 \$48.	79178 \$55.	79179 \$96.	79184 \$36.	79188 Cz \$45.	79200 \$36.	79207 Cz \$57..
		" " "					
79207 pCz \$57.	79209 D with diamonds \$94.	" " "					

## Clips

79138 \$16. each	79163 \$16. each	79210 \$16..each	79140 with 14k gold \$47. each	79216 with 14k gold \$28. each	75118 14k gold \$115. each

## Bracelets and Necklaces in sterling silver (regular and oxidized)

59700(hv) bracelet 6.7-7.1-7.5-7.8-8.3 & 8.7 inch \$175	59700 chain 6.7-7.1-7.5-7.9-8.3 & 8.7 \$175
59700(hv) bracelet 15.8-16.6-17.8 inch \$333 \$19.7 inch \$387	59700 chain 15.8-16.6-17.8 inch \$333 \$19.7 inch \$387
59702(hv) bracelet 6.7-7.1-7.5-7.8-8.3 & 8.7 inch \$305	59702 chain 6.7-7.1-7.5-7.9-8.3 & 8.7 inch \$305
59702(hv) bracelet 15.8-16.6-17.8 inch \$505	59702 chain 15.8-16.6-17.8 inch \$505
59702(hg) bracelet with 14k gold snap 6.7-7.1-7.5-7.8-8.3 & 8.7 \$255	59702(hg) chain with 14k gold snap 6.7-7.1-7.5-7.9-8.3 & 8.7 \$125
59702(hg) bracelet with 14k gold snap 15.8-16.6-17.8 inch \$145	59702(hg) chain with 14k gold snap 15.8-16.6-17.8 inch \$145
59702(hg) bracelet with 14k gold snap 15.8-16.6-17.8 inch \$145	59702(hg) chain with 14k gold snap 15.8-16.6-17.8 inch \$145

PANORA BEADS

0 1 cm

**CLOSED**

**DUANE MORRIS LLP**  
Walter J. Greenhalgh, Esq. (WG-9614)  
Jerry A. Cuomo, Esq. (JC-4253)  
744 Broad Street, Suite 1200  
Newark, New Jersey 07102-3889  
(973) 424-2000  
Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**RECEIVED**

JUN 2 5 2003

AT 8:30 N  
WILLIAM T. WALSH, CLERK

<b>PANDORA JEWELRY, LLC and</b>	:	
<b>PANDORA SMYKKER USA APS,</b>	:	
Plaintiffs,		
-against-		
<b>JASON ADAMS, individually,</b>	:	
<b>JASON ADAMS conducting business as</b>	:	
<b>CHAMILIA BEADED CHARMS,</b>	:	
<b>and DOES 1-20,</b>	:	
Defendants.		
X		

The parties, Pandora Jewelry, I.I.C and Pandora Smykker USA APS, on the one hand, and Jason Adams, individually, on the other hand, having agreed upon a basis for resolving and settling the issues before this Court, it is:

**ORDERED, ADJUDGED AND DECREED:**

1. This Court has jurisdiction over the subject matter of this action and over the parties hereto who have consented to entry of this judgment.
2. Plaintiff, Pandora Jewelry, I.I.C ("Pandora"), is the owner of United States Copyright Registration Number VA 1-208-549 issued on September 4, 2003 entitled "Pandora Beads" consisting of designs for silver and 14-karat gold jewelry beads, spacers, clips, bracelets

and necklaces ("PANDORA Jewelry"). Copies of the registration certificate and the underlying PANDORA Jewelry designs are annexed hereto as Exhibit 1.

3. Plaintiffs have alleged that the Defendant Adams, has violated certain of its rights by promoting, offering for sale and distributing within this judicial district, jewelry products which copy plaintiffs' copyrighted PANDORA Jewelry designs ("CHAMILIA Jewelry"). This Court granted plaintiffs' application for a temporary restraining order brought on by order to show cause on November 7, 2003 and enjoined the defendants, and any other person acting in concert or participation with them, from, *inter alia*, copying plaintiffs' copyrighted PANDORA Jewelry designs and promoting, selling or distributing the CHAMILIA Jewelry. A copy of the November 7, 2003 temporary restraining order is attached hereto as Exhibit 2.

4. On November 21, 2003, upon Defendant Adams' voluntary consent, this Court granted plaintiff's a Preliminary Injunction against Defendant Adams.

5. Without admitting any liability, the Defendant Adams hereby consents to a permanent injunction, as provided in 17 U.S.C. § 502, in the form set forth in paragraph 8 below.

6. Plaintiffs will not seek any additional sanctions against Defendant Adams except as outlined below, unless Defendant Adams violates the terms of the permanent injunction.

7. Plaintiffs hereby dismiss their claims against Defendant Adams with prejudice except as to any future contempt actions.

8. From the day of entry of this Stipulation and Order of Settlement, Defendant Adams, his agents, servants, employees, attorneys and any person acting in concert with Defendant Adams are hereby permanently restrained from copying, manufacturing, promoting, selling and distributing any of plaintiffs' copyrighted PANDORA Jewelry designs as set forth in

U.S. Copyright Registration Number VA 1-208-549 and as depicted in Exhibit 1 hereto and from:

- (a) directly or indirectly infringing plaintiffs' copyrighted PANDORA Jewelry designs or continuing to market, offer, sell, dispose of, license, lease, transfer, display, advertise, reproduce, develop or manufacture any works derived or copied from the PANDORA Jewelry designs or to participate or assist in any such activity;
- (b) continuing to market, offer, sell, dispose of, license, transfer, exploit, advertise, reproduce, develop or manufacture any products that bear, contain or incorporate any unauthorized copy or reproduction of the copyrighted PANDORA Jewelry designs or any design substantially similar thereto or derived therefrom;
- (c) using any counterfeit, copy, simulation, confusingly similar variation, or colorable imitation of plaintiffs' Pandora trade dress in any manner or form, on or in connection with any business, products or services, or in the marketing, advertising and promotion of same;
- (d) imitating, copying or making any unauthorized use of the Pandora trade dress or any copy, simulation, variation or imitation thereof;
- (e) making or displaying any statement or representation that is likely to lead the public or the trade to believe that defendants' goods are in any manner associated or affiliated with or approved, endorsed, licensed, sponsored, authorized or franchised by or are otherwise connected with plaintiffs;
- (f) using or authorizing any third party to use in connection with the rendering, offering, advertising, or promotion of any goods, any false description, false representation, or false designation of origin, or any marks, names, words, symbols, devices or trade dress which falsely associate such goods or services with plaintiffs or tend to do so;

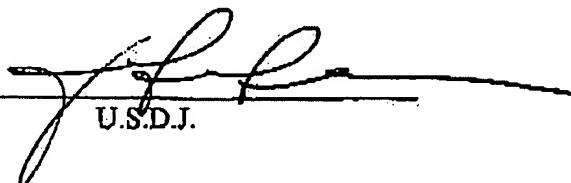
- (g) engaging in any other activity constituting an infringement of plaintiffs' Pandora trade dress, or of plaintiffs' rights therein; and
- (h) aiding, assisting or abetting any other party in doing any act prohibited by sub-paragraphs (a) through (g).

10. In the event of a default or breach of any material provisions of this Stipulation and Order of Settlement by Defendant Adams, Defendant Adams consents to the jurisdiction of this Court to hear any allegation that the permanent injunction has been violated. If such violation is found, plaintiffs shall be entitled to all costs and expenses including attorneys' fees arising out of said default or breach, paid or incurred by plaintiffs in enforcing and in obtaining Defendant Adams' full performance of this Stipulation and Order of Settlement in addition to any fines, damages or injunctive relief awarded by this Court. If violation of this Stipulation and Order of Settlement is not found, plaintiffs shall pay to Defendant Adams all costs and expenses including attorneys' fees arising out of Defendant Adams' efforts in defending such action.

11. This Stipulation and Order of Settlement is in full settlement of all claims and defenses by and between the parties hereto with respect to each and every Count of the Complaint and shall constitute a final adjudication on the merits as to all damages claimed by plaintiffs and defenses which could have been raised by Defendant Adams hereto relating to the subject matter of plaintiffs' complaint. However, nothing in this Stipulation and Order of Settlement waives plaintiffs' rights under both federal law and the statutory and common law of the State of New Jersey including but not limited to inter alia, an ex parte seizure and/or impoundment order, monetary sanctions and costs, lost profits, treble damages, and punitive damages, should an action or motion be warranted by Defendant Adams' future conduct with respect to any acts prohibited by the terms of this Stipulation and Order of Settlement.

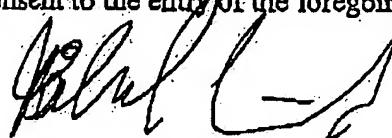
12. The Clerk of the Court is hereby directed to release any undertaking which may have been posted by the plaintiffs pursuant to the November 7, 2003 temporary restraining order issued by this Court.

Dated: Newark, New Jersey  
January 26, 2004

  
U.S.D.J.

The parties and their respective attorneys, hereby consent to the entry of the foregoing Order.

Dated: Columbia, Maryland  
January 22, 2004

By:   
Michael Lund Petersen, for  
Pandora Jewelry, LLC and  
Pandora Smykker USA Aps

Dated: Newark, New Jersey  
January 23, 2004

By:   
DOANE MORRIS LLP

Walter J. Greenhalgh, Esq. (WG-9614)  
Jerry A. Cuomo, Esq. (JC-4253)  
744 Broad Street, Suite 1200  
Newark, New Jersey 07102-3889  
(973) 424-2000

Attorneys for Plaintiffs  
Pandora Jewelry, LLC and  
Pandora Smykker USA Aps

Dated: *Morris town*  
Montville, New Jersey  
January 22, 2004

By:

*Jason Adams*  
Jason Adams

Dated: Morristown, New Jersey  
January 22, 2004

By:

*Joseph A. Molinaro*  
LAW OFFICE OF JOSEPH A. MOLINARO, ESQ.

Joseph A. Molinaro  
67 Park Place  
Morristown, NJ 07960  
(973) 292-7533

Attorney for Jason Adams, individually

NY240407.1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Utility Patent Application of Pandora Jewelry, LLC

Patent: NECKLACES AND BRACELETS WITH KEEPERS

Serial No.: 10/623,614

Filing Date: July 21, 2003

Atty Docket No.: Y1776-00004

**DECLARATION OF JODY HENDERSON IN SUPPORT OF  
APPLICANT'S OPPOSITION TO CHAMILIA LLC'S  
PETITION TO ACCESS A PENDING PATENT APPLICATION**

JODY HENDERSON makes the following declaration in support of applicant's opposition to Chamilia LLC's petition to access the patent application

1. I am a sales representative for Pandora Jewelry, LLC ("Pandora") located in Columbia, Maryland. I am responsible for promoting and distributing Pandora's unique and distinctive line of silver and 14-karat gold jewelry to retailers in Central and Southern Illinois. My employment with Pandora began in mid-February, 2004 and since then, on its behalf, I have established accounts in approximately 30 retail locations in Illinois. Aside from representing Pandora, I am also a sales representative for the LAD Group promoting and distributing its Message Connexion jewelry line in Illinois. Most of my time, however, is devoted to Pandora.

2. I have read the Declarations of Lisa Whirlow and Kathy Riley, dated March 29, 2004 and April 13, 2004 respectively, submitted in support of Chamilia LLC's petition to access a pending patent application and submit the following declaration to correct several

misstatements asserted in Ms. Riley's declaration. I have personal knowledge of the facts stated herein and am competent to testify thereto.

3. On March 14, 2004, together with my 10-year old daughter, I visited the LAD Group display booth at the Chicago Gift Show in Chicago, Illinois to pick up several documents from Robbi Potter, an owner of the LAD Group. My daughter and I spent approximately 20 minutes at the LAD Group booth. Although I did not attend the Chicago Gift Show in my capacity as a Pandora sales representative, I was wearing a Pandora bracelet with various silver and 14-karat gold jewelry beads.

4. While at the LAD Group booth, Ms. Riley approached me and inquired about my Pandora bracelet. We spoke for a few minutes concerning the Pandora jewelry line before she asked me about a lawsuit involving Pandora and Chamilia. Contrary to Ms. Riley's recollection and a statement made in her declaration, during the time in which we spoke, there were no other jewelry distributors or customers present. The only other individuals present at the LAD Group booth during our brief conversation were my daughter and Mrs. Potter.

5. I quickly informed Ms. Riley that the only lawsuit I was aware of concerned the copying of Pandora's jewelry bead designs by Chamilia. I never indicated to her that Pandora was suing or intended to sue Chamilia based on its patent pending. Furthermore, I never suggested that Chamilia "soon would not be able to sell its jewelry." In fact, the only lawsuit that Ms. Riley and I discussed involved the copyright infringement lawsuit against Chamilia which ended in November, 2003. While I am aware in March, 2004 that Pandora had a patent pending for its jewelry line, Ms. Riley and I never discussed it.

6. Since I began promoting and selling the Pandora line of jewelry products in mid-February of this year, I have encountered several customers who have inquired about a lawsuit

involving Pandora and Chamilia. In an effort not to misstate any facts concerning the only lawsuit I am aware of involving Pandora and Chamilia, while traveling to promote the Pandora jewelry products, I carry along with me a copy of a press release from Gift Beat magazine which sets forth the facts of the copyright lawsuit against Chamilia and the permanent injunction and judgment entered against it. A copy of the Gift Beat press release is attached as Exhibit 1 to my declaration.

7. When asked by a customer or potential customer of the Pandora jewelry line about any lawsuit involving the two parties, I would present a copy of the Gift Beat press release to them so that they could familiarize themselves with the facts of that case. I have never advised a customer or potential customer that Pandora would "close down Chamilia with the Pandora patent" or that Chamilia was having "financial problems."

I DECLARE under penalty of perjury that the foregoing is true and correct.

Dated: Chicago, Illinois  
June 8, 2004

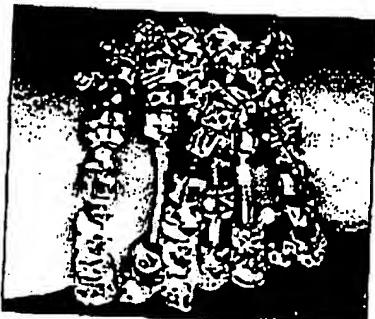
Jody Henderson  
Jody Henderson

NY252163.1

## On Our Radar...

♦ A European bead trend...that is receiving some interest on giftbeat.com (see "The next ICB?" in the Buying/Product forum).

Pandora Jewelry (410) 309-0200, which has a patent-pending on its bracelet design, has been selling in Northern Europe for four years. A year ago, the company opened a U.S. office. The concept is similar to Italian charms, where consumers create unique bracelets for themselves. Bracelets are divided by small threads into three sections. Each bead is also threaded, which allows easy attachment to the desired section of



the bracelet. Pandora's bracelets are offered in six lengths (\$13.25 each). Sterling silver spacers cost \$5 each, while 14-karat gold spacers begin at \$22 wholesale. Sterling silver beads start at \$5.50 cost and 14-karat gold styles are \$44 and up.

A California retailer, who does big business in Italian charms, brought in the Pandora line last April. "It's doubling in sales for us every month." While he doesn't believe the trend will be as big as Italian charms, he expects it will be about 50-65% of his ICB business. "Customers love the look. Some people say it's a little more upscale than the Italian charms." While the bracelets are much easier to put together, he stresses the importance of sales associates spending time with customers to explain how to create their own special jewelry ([pandora-jewelry.com](http://pandora-jewelry.com)).

**Editor's Note:** We confirmed that on November 25, 2003, Pandora won a judgment for copyright infringement against the company Chamilia in U.S. District Court for the Southern District of New York. Chamilia was ordered to destroy the jewelry that infringed upon Pandora's copyright.

to do so in the future.

Manufacturers we polled point to improved customer service and communication as two key benefits of a Web presence. Not surprisingly, "Web 2.0" is

hot! As consumers (6) 394-6313 are SoY Beads" por-

ice or an electric



ember, based on since then, he's ing into 2004, he .com).

♦ **Vintage Flair.** The uses to gain attention *natural Life* (800) of this trend with its collection." Featuring colorful, hand-embroidered ticking fabric, as a frame, bag, door hanger piece is high- ntiments, such as "Friends are the best od for girlfriends" and "I like a sister." Cost — ([naturalife.net](http://naturalife.net)).

## A Sentiment Line That Sells

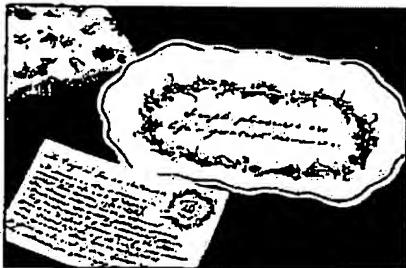
Looking for some well-priced, well-designed sentiment items that focus on sister, mother or special friends? Plain Jane (800) 253-5263 has hit the mark in this category, retailers report. The ceramic items are decorative, functional and boxed for gift giving. The company's tagline is appropriate: "Gifts to go...just add a bow!" Plain Jane's collections feature verses like "A true friend reaches for your hand and touches your heart" or "Simple pleasures are life's greatest treasures."

Sentiments

are found on

two lines:

"Petite Expressions," dainty, blue-and-white dishes intro-



duced last year; and "English Garden" (shown above), new for 2004 and featuring oval and oblong dishes for holding eyeglasses or jewelry. A Georgia retailer, who has reordered the "Petite Expressions" dishes ten times, retails them for \$12 (wholesale is \$5). "Customers don't have to look at their budget to decide if they want to spend \$12 to make a friend happy." An Ohio retailer adds, "We rarely sell just one dish. It's usually at least two. Some buy four or six at a time." A pump dispenser and two picture frame shapes are new for 2004. Plain Jane receives high marks from retailers for customer service, prompt shipping and quality. "All this just makes it a no-brainer to bring this line into your store," the Georgia retailer adds ([plainjaneinc.com](http://plainjaneinc.com)).

## Breakout Meetings

at perspectives. Example: "We've sat at the downside of this proposal. anyone have a more positive take on this situation?"

it everyone involved. Break meetings in smaller groups and assign specific tasks. ing in small groups will give more e a chance to become active and ate new ideas.

exp participants' comments brief, ally limit discussion if you see that people rambling on or repeating themselves. *Communication Briefings*, Dec. '03, "The Complete Handbook of Business

## Licensing Watch...Simson Giftware

(800) 966-0050, applies the nostalgia of the

*Pillsbury Doughboy*

to a 40-piece intro-

duction of home

decor, casual serv-

ware and desktop

and tabletop acces-

sories. Categories

include magnets,

bookends, bowls and

more. All serving



products are made of ceramic. Cost range:

\$1.50-\$25. The cheeseboard shown here is 16-in. high with a cost of \$25 ([simsongift.com](http://simsongift.com)).

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Utility Patent Application of Pandora Jewelry, LLC

Patent: NECKLACES AND BRACELETS WITH KEEPERS

Serial No.: 10/623,614

Filing Date: July 21, 2003

Atty Docket No.: Y1776-00004

**DECLARATION OF STEVE GLUECK IN SUPPORT OF  
APPLICANT'S OPPOSITION TO CHAMILIA LLC'S  
PETITION TO ACCESS A PENDING PATENT APPLICATION**

STEVE GLUECK makes the following declaration in support of applicant's opposition to Chamilia LLC's petition to access the patent application

1. I am a sales representative for Pandora Jewelry, LLC ("Pandora") located in Columbia, Maryland. I am responsible for promoting and distributing Pandora's unique and distinctive line of silver and 14-karat gold jewelry to retailers in California, Oregon, Washington, Nevada, Arizona and Hawaii. My employment with Pandora began in March, 2003 and since then, on its behalf, I have established accounts in approximately 250 retail locations in the western part of the United States.

2. I have read the Declarations of Lisa Whirlow and Kathy Riley, dated March 29, 2004 and April 13, 2004 respectively, submitted in support of Chamilia LLC's petition to access a pending patent application and submit the following declaration to correct several erroneous and misconstrued statements asserted in Ms. Whirlow's declaration. I have personal knowledge of the facts stated herein and am competent to testify thereto.

3. In February, 2004, Pandora was an exhibitor of its jewelry products at the Winter International Gift Show in San Francisco, California. I was the only Pandora representative who oversaw and managed the exhibition booth during the days of the Gift Show.

4. I do not make a practice of visiting other exhibitors at trade shows but on February 8, 2004, on my way to the restroom, I encountered Ms. Whirlow at Chamilia's exhibition booth and I introduced myself. It is my understanding that Ms. Whirlow is the national sales representative for Chamilia LLC.

5. Ms. Whirlow and I began discussing Pandora's copyright infringement suit filed against Chamilia in October, 2003. Ms. Whirlow's tone was very apologetic and she indicated that she regretted that her company had ever copied Pandora's jewelry beads. She also specified that she was unaware that Chamilia would copy a competitor's protected jewelry designs.

6. When Ms. Whirlow inquired about Pandora's patent for its jewelry line, I clearly indicated to her that Pandora did not own a patent. I followed up my comment by stating that Pandora filed a patent for its jewelry line, and if such patent issues, Pandora would take the necessary steps to protect its valuable rights. At no such time did I indicate to Ms. Whirlow that Pandora owned a patent or that Chamilia had violated Pandora's "patent rights."

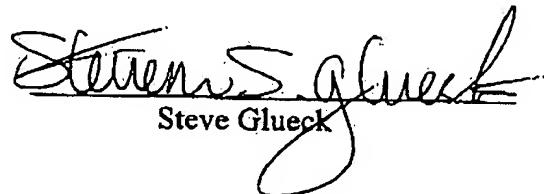
7. At the conclusion of the Gift Show in San Francisco, I received a telephone call from a gentleman who introduced himself as the vice president of Chamilia. He accused me of informing a Chamilia customer that Pandora would "close down" Chamilia based on its patent rights. He further advised me that Pandora and Chamilia should make their jewelry products compatible since there "is enough business for all of us." I informed the gentleman that Pandora was likely not interested in conducting business with Chamilia. Further, I advised him that his customer obviously misunderstood any statement I made. I reiterated to him the same statement

I made to Ms. Whirlow on February 8, 2004, and advised him that if Pandora's patent pending issued, that Pandora was prepared to take the necessary steps to protect its rights. I have repeated this same statement to several customers or potential customers which inquired about Pandora's "patent rights."

8. I have never advised a customer or potential customer that Pandora would "close down Chamilia with the Pandora patent" or that Chamilia was having "financial problems."

I DECLARE under penalty of perjury that the foregoing is true and correct.

Dated: Los Angeles, California  
June 8, 2004

  
Steve Glueck

NY1252167.1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Utility Patent Application of Pandora Jewelry, LLC

Patent: NECKLACES AND BRACELETS WITH KEEPERS

Serial No.: 10/623,614

Filing Date: July 21, 2003

Atty Docket No.: Y1776-00004

**DECLARATION OF MICHAEL LUND PETERSEN IN SUPPORT OF  
APPLICANT'S OPPOSITION TO CHAMILIA LLC'S PETITION  
TO ACCESS A PENDING PATENT APPLICATION**

MICHAEL LUND PETERSEN makes the following declaration in support of applicant's opposition to Chamilia LLC's petition to access the patent application

1. I am the president of Pandora Jewelry, LLC ("Pandora Jewelry") and an officer of Pandora Smykker USA Aps, ("Pandora Smykker") (collectively, "Pandora"). Pandora Jewelry is a wholly owned subsidiary of Pandora Smykker, which has its headquarters in Copenhagen, in the Kingdom of Denmark. Our offices in the United States of America are in Columbia, Maryland, which is located near the District of Columbia.

2. I have read the Declarations of Lisa Whirlow and Kathy Riley, dated March 29, 2004 and April 13, 2004 respectively, submitted in support of Chamilia LLC's petition to access a pending patent application and submit the following declaration to correct several erroneous statements asserted in Ms. Whirlow's declaration. I have personal knowledge of the facts stated herein and am competent to testify thereto.

3. This is not Pandora's first encounter with Chamilia. As explained further in my declaration, my company was forced to bring two federal lawsuits, one in the Southern District of New York and another in the District Court of New Jersey, to enjoin Chamilia and its retailers from selling jewelry which infringed Pandora's copyrights.

4. Pandora Jewelry is the United States distributor of the unique and distinctive jewelry designs created by Pandora Smykker's artisans in Copenhagen. In particular, we had created a unique series of beads, spacers, clips, bracelets and necklaces, each an original work of art which captures the expressive spirit of Scandinavian design (hereinafter "Pandora jewelry"). Lisbeth Susanne Eno Larsen and Lone Ronnow Frandsen, employees of Pandora Smykker, created each of the original designs for the Pandora jewelry designs in our Copenhagen studio.

5. The Pandora jewelry designs were created in 1999, and are protected by the Danish Copyright laws. Pandora Jewelry obtained a U.S. Copyright Certificate of Registration VA 1-208-549 for our Pandora jewelry designs, effective on September 4, 2003.

6. In October, 2002, Pandora entered the United States market and began distributing Pandora's copyrighted catalogs and other sales information including samples of the Pandora jewelry designs to retailers and potential customers. In March, 2003, we began selling the copyrighted Pandora jewelry designs crafted in silver and 14 karat gold into the United States. As part of this effort, we organized Pandora Jewelry to manage our business in the United States. As president of Pandora Jewelry, I manage this business for Pandora Smykker and have knowledge of the facts set forth in my declaration.

7. Building upon the original character of our copyrighted Pandora jewelry designs, Per. A. Enevoldsen, a principal of Pandora, invented a unique method of stringing jewelry beads, spacers and clips which, in turn, form individually distinctive bracelets and necklaces. On July

21, 2003, Pandora filed a patent application with the U.S. Patent and Trademark Office to protect Mr. Enevoldsen's invention. The patent pending is entitled "NECKLACES AND BRACELETS WITH KEEPERs" and was assigned Application No. 10/623,641.

8. Emphasizing original and interesting shapes, Pandora has developed a distinctive line of precious metal and semi-precious stone jewelry which has proven to be very successful. Since our introduction of these distinctive jewelry items in October, 2002, we have achieved nearly \$3,000,000 in wholesale sales in the U.S. We began our sales effort on the West Coast and are now selling products across the United States as a result of the terrific customer interest our designs have generated. Our customers are presently selling our Pandora jewelry designs in 180 to 200 retail locations in the United States.

9. A copy of our catalog, which is accessible via my company's website, [www.pandora-jewelry.com](http://www.pandora-jewelry.com), depicts our beautiful and creative jewelry which has attracted customers of taste who have purchased our unique combination of copyrighted Pandora's jewelry designs, including jewelry beads, spacers, clips, bracelets and necklaces. My company's website located at

10. In June 2003, Dov Schwartz, a principal of Chamilia, became a distributor of the Pandora Jewelry. We believe that during the summer of 2003, Chamilia arranged to have the Pandora jewelry designs reverse engineered in Asia by taking a cast from existing jewelry items then creating a mold to cast the infringing copies. In mid-August 2003 we learned that Chamilia had copied Pandora's collection of the Pandora jewelry designs and were offering them for sale to Pandora's own retail store customers.

11. In order to confirm that Chamilia had in fact copied our copyrighted jewelry designs I attended the San Francisco International Gift Fair in San Francisco, California on

August 26 and 27, 2003. At the Gift Fair on August 26, 2003 I visited Chamilia's booth and discovered that Chamilia was displaying jewelry products which in fact were copies of Pandora's protected jewelry designs. On August 27, I visited the booth again and encountered Lisa Whirlow. At the time I was not aware that she was a "National Sales Representative" but only that she was a Chamilia sales representative for the southern California area.

12. I informed Ms. Whirlow then that the jewelry imported, marketed and sold by Chamilia were copies of Pandora's copyrighted designs. I also informed her that Pandora owned a copyright in Europe and in the United States for all of its jewelry designs. In fact, I told her that Pandora owned a "worldwide copyright." Ms. Whirlow then told me that there were a number of companies in the jewelry industry that have copied or planned to copy Pandora's jewelry designs.

13. During our conversation, I notified her that Pandora had a patent pending for the method by which the jewelry beads, clips and spacers are fastened to the bracelets and necklaces. She asked me for the patent application number and I told her I did not know it off hand. Contrary to the statements made in her declaration, I never told Ms. Whirlow that Pandora owned a "worldwide patent." When I advised her of Pandora's "worldwide" rights, I clearly referred to Pandora's copyrights and not any patent. Furthermore, at no time did I advise her that Pandora would use its patent to "shut down" Chamilia or any of Pandora's competitors.

14. On August 26, 2003, I instructed our then patent counsel, William S. Ramsey, to send a letter to Chamilia demanding that it cease infringing Pandora's jewelry designs. A copy of that letter is annexed hereto as Exhibit 1. In that letter, Mr. Ramsey informed Chamilia of Pandora's copyright rights in the jewelry designs and further informed Chamilia that Pandora

had filed a “nonprovisional U.S. Patent Application which protects the functional aspects of the necklaces and bracelets.”

15. Shortly after the cease and desist letter was mailed, Mr. Ramsey had a telephone conversation with a representative of Chamilia. Despite this acknowledged notice of its infringement, Chamilia did not cease copying Pandora’s jewelry designs. Even after being put on notice of the strength of plaintiffs’ rights and goodwill in their original and novel jewelry designs, Chamilia continued to distribute jewelry products copying Pandora’s jewelry designs in the United States.

16. I instructed our new intellectual property counsel to initiate a lawsuit against Chamilia based on its willful infringement of Pandora’s copyrights. On September 25, 2003, Pandora filed suit against Chamilia for copyright infringement, trade dress infringement, unfair competition, dilution and deceptive trade practices under both federal and New York law. This lawsuit, which concerned the unauthorized manufacture, promotion, distribution and sale of Chamilia’s jewelry which copied the copyrighted Pandora jewelry designs, was filed in the United States District Court for the Southern District of New York and was assigned to United States District Judge John E. Sprizzo (“New York Action”).

17. In the New York Action, Pandora sought a temporary restraining order (“TRO”) against Chamilia. On October 2, 2003, after holding a hearing, Judge Sprizzo issued a TRO which enjoined Chamilia, and any other person acting in concert or participation with Chamilia, from, among other things, copying, marketing, or selling copies of Pandora’s copyrighted jewelry designs. A copy of the TRO is attached hereto as Exhibit 2.

18. After a period of settlement discussions, Chamilia consented to the entry of a judgment against it. On November 24, 2003, a Final Judgment on Consent (“Final Judgment”)

executed by the parties was entered by Judge Sprizzo as a final judgment of copyright infringement against Chamilia in favor of Pandora. A copy of the Final Judgment is attached hereto as Exhibit 3.

19. In early November, 2003, in order to restrain various retailers in New Jersey from selling the infringing Chamilia jewelry, Pandora filed an action against Jason Adams, individually, and Jason Adams conducting business as Chamilia Beaded Charms in the District Court for New Jersey (“New Jersey Action”) alleging the copyright and trademark infringement resulting from the New Jersey retailer’s sale of the Chamilia jewelry. On November 7, 2003, the District Court Judge in the New Jersey Action also issued a TRO enjoining the New Jersey retailers from promoting, selling or distributing the Chamilia jewelry.

20. On January 26, 2004, the District Court Judge in the New Jersey action entered a Stipulation and Order of Settlement whereby Jason Adams consented to an injunction permanently restraining Mr. Adams from copying Pandora’s jewelry designs and selling the Chamilia jewelry. A copy of the Stipulation and Order of Settlement is attached hereto as Exhibit 4.

21. I ask the U.S. Patent and Trademark Office not to allow Chamilia access to our pending patent. There has been no need demonstrated by Chamilia to obtain access. Given Chamilia’s commercially antagonistic approach against Pandora’s interest, we ask that no special consideration be give to Chamilia.

I DECLARE under penalty of perjury that the foregoing is true and correct.

Dated: Columbia, Maryland  
June 9, 2004



Michael Lund Petersen

NY231784.1

**William S. Ramsey, P.C.**  
INTELLECTUAL PROPERTY LEGAL COUNSEL

5253 Even Star Place  
Columbia, MD 21044

Phone 410-740-2225  
Fax 410-730-9467

[www.williamramscylaw.com](http://www.williamramscylaw.com)

August 26, 2003

Chamilia LLC  
64-09 Booth Street  
Second Floor  
Rego Park, NY 11374

By Certified Mail

**Re: CEASE AND DESIST DEMAND  
Our Client's Property: PANDORA Necklaces and Bracelets**

Dear Sir or Madam:

William S. Ramsey, P.C., represents Pandora Jewelry LLC, 10015 Old Columbia Road, Suite B-215, Columbia, MD 21046 (PANDORA). As you may know, PANDORA is a manufacturer and purveyor of jewelry, in particular, necklaces and bracelets which incorporate, among other elements, keepers which interact with bands fixed to the strands, and which prevent the bunching of beads strung on the necklace or bracelet. PANDORA has filed a nonprovisional U.S. Patent Application which protects the functional aspects of the necklaces and bracelets. In addition, PANDORA owns trademark and copyright rights in their necklaces and bracelets.

PANDORA is now aware that Chamilia LLC, a business operating out of 64-09 Booth Street, Second Floor, Rego Park, NY 11374 (CHAMILIA) is making, using, offering to sell, or selling necklaces and bracelets in the United States which appear to utilize substantially the same construction and perform substantially the same functions as PANDORA'S patent applied for necklaces and bracelets.

In addition, CHAMILIA'S necklaces and bracelets appear to so closely resemble PANDORA'S products as to cause the likelihood of confusion concerning the origin of CHAMILIA'S products and thereby raises the possibility of infringement of PANDORA'S trademarks.

In addition, CHAMILIA'S necklaces and bracelets appear to be substantially similar to copyright protected aspects of PANDORA'S products. Since access to

PANDORA'S products has been established by widespread public sale, the possibility of infringement of PANDORA'S copyrights is also raised.

In addition, CHAMILIA actions may be actionable under the following causes of action: unfair competition under federal and state law, false designation of origin, and false advertising, which can result in statutory and punitive damages, lost profits, and costs thereof.

You should be aware that PANDORA has invested significant effort and expense in the research, development and patenting and the creation of distinctive and creative elements of these necklaces and bracelets, and considers the patent application and other intellectual property covering such products to be an important and highly valuable asset. PANDORA accordingly has significant business interests in protecting the proprietary technology covered by this U.S. Patent application and other intellectual property rights. As a matter of principle and policy, therefore, PANDORA vigorously defends and protects its intellectual property rights and is quite willing and committed to pursuing any and all infringements of these rights to the fullest extent possible.

Accordingly, PANDORA demands that:

- (1) CHAMILIA immediately cease and desist all commercial activity which would infringe any of PANDORA'S intellectual property rights;
- (2) CHAMILIA provide complete information as to the design and operation of the CHAMILIA necklaces and bracelets, including any drawings and system descriptions;
- (3) CHAMILIA provide a complete accounting of all necklaces and bracelets manufactured, imported, and sold, which accounting must include an identification of the customers, prices charged, and profits generated from such sales for all necklaces and bracelets made, imported, offered for sale, or sold by or on behalf of CHAMILIA, and your franchisee or affiliated entities.

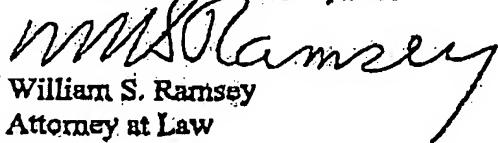
Because many of the improper uses of our client's intellectual property are being used on the internet, it is our position that we are being greatly damaged every minute these uses are permitted to continue. Further, we realize that such electronic uses may be immediately removed from your website with little effort. Therefore, we demand a written response hereto that CHAMILIA confirms the above demands and has taken steps to remove the objectionable uses of our client's trademark from its website within fifteen (15) days.

Please respond to this letter within fifteen (15) days by providing your assurances that CHAMILIA: (1) discontinued the making, use, offering for sale, sale or importation of all necklaces and bracelets and components that would fall within the scope of

PANDORA'S intellectual property. As a further part of this response, I request that CHAMILIA provide the complete product, sales and other related information requested above. You should be aware that if I do not have a response from you within the requested time, PANDORA will be forced to take all actions necessary and as permitted by law to enforce its rights.

Please contact me or have your legal counsel contact me if you have any questions.

Sincerely,  
WILLIAM S. RAMSEY, P.C.

  
William S. Ramsey  
Attorney at Law

cc:  
Michael Lund

CEASE AND DESIST